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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, You are our dwelling place in all generations. Keep us this day from a moral casualness that leads away from ethical paths. Help our Senators to labor to please You, their most important constituent. Give them wisdom to avoid even the appearance of evil as they strive to live for Your honor. Make them fervent in their pursuit of spiritual fitness so that they will love You with passion and strength. Keep them from vacillating ways and lead them in Your righteousness.

As we take refuge in Your providence, use us all as instruments of Your grace to bring relief to a suffering world. Continue to sustain our military men and women in harm's way.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 5, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ISAKSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, we are returning to the border security bill which has been pending since last Wednesday. Last night, the minority leader filed a cloture motion on the chairman's substitute amendment. I was a little surprised when I heard this happened, although I was not on the floor when it was filed. I certainly understand the rules that permit the minority leader to file this motion. I know it is a rare occurrence when the minority leader files such a cloture motion, and at this point he did on the bill. I believe we can make real progress on addressing the amendments if we allow them to come forward, debate them openly, and then vote on them. We do still have the first amendment which was offered to the bill last week pending before the Senate; that is, the Kyl-Cornyn amendment on which we voted on the motion to table last night, 0 to 99—a unanimous vote. The motion had been made and it was not tabled; therefore, it is the pending amendment. We have three other amendments Senators have offered and debated, but we have not been given the opportunity to vote on those.

As I said at the outset of the debate last week, my intention was to give ample time to have amendments come forward, to debate, to fully understand what is in the Judiciary bill, to modify the Judiciary bill by debate and amendment. I encourage Members to come to the floor to do just that, to offer their amendments. Members show up, and then there is an objection to even offering the amendments from the other side. I specifically set aside these weeks for the Senate to debate this particular issue, the border security and immigration issue, because it is one that is important to the safety of the American people, the security of the Nation, and fairness to immigrants. We are a nation of laws, and we are a rich nation of immigrants. Both of those principles need to be respected in the debate, but we can only do so by making sure that the laws we pass are upheld and that we address the people who have broken the law. That can be done in a comprehensive bill, and we have to have debate and amendment.

The debate over security on our borders and handling immigration has generated a lot of ideas. The debate has matured, and we have had good debate on the floor. Now we have the attention of all 100 Senators and people around the country looking at what we do. They expect us to legislate, to address the very real problems that are out there today, and that requires debate and amendment.

If you look at other large bills we have done, the Medicare prescription drug bill, we had 128 amendments considered; the Energy bill, we had 60 or 70 amendments considered; on the highway bill, 47 amendments; bankruptcy reform, 61 amendments. It is important that we debate these amendments and act on them. We just can't sit on the side lines; the problem is too big, too important. It is growing. An estimated 3 million people crossed our southwestern borders illegally last year, and we don't know who they are. We don't know what their intentions are. We need to bring a rational, fair framework to assist a system that is just flatout broken. That is our responsibility.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Today is a new day, and we are just getting started. With that, I hope we will have the opportunity to start afresh. The two managers last night indicated they would be working together and would try to work out a list of amendments to be voted upon. I assume those would include the amendments that were offered last week. I would hope that they are. I encourage them to work out a process to give Senators on both sides of the aisle the chance to offer amendments and to have them voted upon so that we can complete that path to finishing a bill which is critically important to the safety and security of the American people.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SECURING AMERICA'S BORDERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2454) to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

Pending:

Specter/Leahy amendment No. 3192, in the nature of a substitute.

Kyl/Cornyn amendment No. 3206 (to amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status.

Cornyn amendment No. 3207 (to amendment No. 3206), to establish an enactment date.

Isakson amendment No. 3215 (to amendment No. 3192), to demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Dorgan amendment No. 3223 (to amendment No. 3192), to allow United States citizens under 18 years of age to travel to Canada without a passport, to develop a system to enable United States citizens to take 24-hour excursions to Canada without a passport, and to limit the cost of passport cards or similar alternatives to passports to $20.

Mikulski/Warner amendment No. 3217 (to amendment No. 3192), to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have worked on trying to break the impasse, and staff for Senator LEAHY and myself worked late last night and have a number of amendments where both sides think we can argue them, debate them, and vote on them. But we have still not resolved the issue as to what to do with certain pending amendments. It was my hope that the pending amendments would be included in the list, but that was not to be the case. We have debated the Kyl-Cornyn amendment. It is my thought that we ought to vote on that amendment. But that is objected to by the Democrats. In order to proceed to consideration and votes on other amendments, we have to set aside the Kyl-Cornyn amendment. Senator KYL is understandably concerned about setting aside his amendment, that he will not have an opportunity to vote on it. So we are still working to try to resolve the issue.

I have just had a short discussion with the distinguished Democratic leader. We are prepared to move ahead, not as usefully as we might but at least to use floor time on matters which we would have later. We have agreed that Senator SANTORUM would be recognized to lay down an amendment and speak about it and that Senator NELSON of Florida would lay down an amendment and speak about it. In the interim, we are continuing to talk to see if we can resolve our differences of opinion.

Mr. REID. Mr. President, it is my understanding that Senator SANTORUM would lay down his amendment, speak on it for whatever time he feels appropriate. Following the termination of his remarks, the Senator from Florida would be recognized, or someone on his behalf, to lay down amendment No. 3220 and speak for whatever time he thought appropriate.

Mr. SPECTER. That is my understanding as well. So we have agreed upon something.

Mr. REID. I ask unanimous consent on that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

AMENDMENT NO. 3214

Mr. SANTORUM. Mr. President, I call up amendment No. 3214 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself and Ms. MIKULSKI, proposes an amendment numbered 3214.

Mr. SANTORUM. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act)

At the appropriate place, insert the following:

SEC. ___. DESIGNATION OF POLAND AS A VISA WAIVER COUNTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of State and the Secretary administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) VISA WAIVER PROGRAM.—Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, this is an amendment offered along with Senator MIKULSKI on the Polish visa waiver program. This is an issue I have talked about on numerous occasions along with Senator MIKULSKI. We have concern that one of our best allies—in fact, one of our staunchest allies—has great concerns about the way they are being treated in the United States with respect to the visa waiver program.

The visa waiver program is available to 27 countries around the world. That allows citizens from those countries to travel in the United States for vacation and visiting families, et cetera, without requiring a visa. This is a program which is given to countries which we have a special relationship with and which are able to meet certain criteria laid out in the law and have been certified by the Department of State as having met that criteria.

Poland, so far, has not been able to meet the criteria that has been laid out in statute, although I will say that when Senator MIKULSKI and I introduced this in the last session and

pushed for its adoption, I think we energized the administration and State Department to get to work and try to find a way for us to meet the Poles halfway with respect to getting them into the visa waiver program.

I am very pleased to see that last year, they were again writing letters, putting on pressure, threatening to bring this bill up for purposes of passage. We brought it up in the 108th Congress and tried to pass it. Unfortunately, there was an objection on the other side of the aisle. We cleared it here, and I think there is broad support for taking a country—and it is now 25 years since the strike at the Gdansk Shipyard. There has been a tremendous change in this country which was brought about by real freedom fighters, led at the time by Lech Walesa and subsequent leaders to establish a stable democracy there—a democracy that is thriving and one that had an election recently and elected a new President. It is a President who I believe will continue to have very strong ties to the United States.

I know the Polish people. I have a lot of Poles in my State, and they tell me they travel over there, and the sentiment and feeling toward America is very strong. There is support for us in the war on terror, as strong as any country in the world. They have been a terrific ally during this period of time.

Obviously, the contribution the Polish Americans have made to this country, from Revolutionary War times all the way through today, is quite striking and important. So we have a country that has made fundamental changes toward democracy and toward a free market economy, which is doing relatively well, a country that we have so much in common with. Yet while almost all of the European Union countries participate in the visa waiver program, unfortunately, Poland has not been granted that waiver.

The President, last year, in response to the activity here in Congress, was able to put together what is called the roadmap. The roadmap was negotiated on February 9 of last year with then-President Kwasniewski. He laid out some very real steps to try to help give Poland another chance to show that they are prepared to meet the requirements of the law.

Unfortunately, we still have a situation where we have very high refusal rates. That is one of the criteria, but I am not too sure it is a good criterion. It basically trusts a bureaucrat in an embassy in Poland to determine whether someone should enter this country for the purpose of travel. When they are refused, for whatever reason, that adds to the refusal rate, and that rate is high. I don't know whether the embassy there is tougher or what. Also, the refusal rate sometimes is not reflective of the actual percentage of people who are trying to come here and are refused. If 1 person wants to come and asks 10 times, that is 10 refusals, not 1. To me, that also can skew the number of refusals.

I am just suggesting that I think we have a special case here. Congress has done this in the past with Ireland. Congress stepped forward, and we pushed the executive branch at that time to allow Ireland into the visa waiver program. I think it is time for us, given the tremendous support we have gotten from the Polish people, the tremendous relationship between our countries, the tremendous contribution the Poles continue to make to this country—and I can tell you, hearing from them on a regular basis as I do, since we have a large Polish population in our State, that this is something vitally important to Polish Americans—the ability of family members to come for weddings, funerals, birthdays, et cetera, and not have to wait for the bureaucracy at the American Embassy in Poland to approve these types of activities.

This is an important sign to a good friend that we stand with them and that we want to treat them as one of our best friends because, indeed, they are one of our best friends in the world. Senator MIKULSKI and I have drafted a piece of legislation that puts Poland into the visa waiver program. I reached out to the Judiciary Committee, which is responsible for this bill. I said: Look, if you have concerns and some tweaks we can make that gets them into the program but puts reasonable standards in place, we are happy to consider that. To date, on both sides of the aisle, we have not had very much cooperation in making what I consider to be some minor tweaks that would be necessary to pass this legislation.

I have come today to offer this amendment. Hopefully, we can get this accepted. If not, I would like to have a vote on this amendment. I believe it is important for all of us to stand up before our friends in Poland and affirm our support for them, as they have affirmed over the past many years their support for the United States and the initiatives we have taken around the world.

Mr. President, if you look at some of the countries that are in this program, we have countries such as Brunei in the visa waiver program, San Marino, and Liechtenstein. I suggest that if you are looking at countries that are supportive of the United States, I am not too sure you would name those above Poland. If you name a country whose culture, whose people have close ties to the United States, I am not too sure you would list those countries above Poland.

I hope we can consider this amendment and adopt this amendment, approve this amendment, and send a very strong signal to our friends in Poland that we stand in solidarity with them for their efforts to democratize, to open markets, and to create the freedom that our President and so many in the Chamber have advocated over the past several years.

With that, I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a wrong in America's visa program. I believe it's time for America to extend the visa waiver program to Poland. I am pleased to have formed a bipartisan partnership with Senator SANTORUM to introduce this amendment to get it done.

In September 2004, Senator SANTORUM and I met with a hero of the Cold War, Lech Walesa. When he jumped over the wall of the Gdansk Shipyard, he took Poland and the whole world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the visa waiver program to Poland.

Last month, I had the honor of meeting with Poland's new President, Lech Kaczynski, joined by my colleagues Senator LEVIN and Senator LUGAR. We reaffirmed and cemented the close ties between the Polish and American peoples. And we heard loud and clear that the visa waiver program remains a high priority for Poland.

My friends, Poland is not some Communist holdover or third-world country begging for a handout. The Cold War is over. Poland is a free and democratic nation. Poland is a NATO ally and a member of the European Union. But America's visa policy still treats Poland as a second-class citizen. That is just wrong.

Poland is a reliable ally, not just by treaty but in deeds. Warsaw hosted an international Conference on Combating Terrorism less than 2 months after the September 11 attacks. Poland continues to modernize its armed forces so they can operate with the Armed Forces of the U.S. and other NATO allies, buying American F–16s and Shadow UAVs and humvees.

More importantly, Polish troops have stood side by side with America's Armed Forces. Polish ships participated in Desert Shield and Desert Storm during the first gulf war. Poland sent troops to Bosnia as part of UNPROFOR and IFOR. Poland sent troops as part of the international coalition in Afghanistan.

Polish troops have been fighting alongside American troops from day 1 of the Iraq war. Seventeen Polish soldiers have been killed in Iraq, and more than 20 have been injured. They are in Iraq because they want to be reliable allies—because they are ready to stand with us even when the mission is risky and unpopular. Today, nearly 1,000 Polish troops are still on the ground in Iraq, sharing the burden and the risk and the casualties. Next year, Poland will send more than 1,000 troops to Afghanistan to lead NATO's International Security Assistance Force.

So why is France among the 27 countries in the visa waiver program but Poland is not?

This amendment will add Poland to the list of designated countries in the visa waiver program. That will allow Polish citizens to travel to the U.S. for tourism or business for up to 60 days

without needing to stand in line to get a visa. That means it will be easier for Poles to visit family and friends or do business in America. Shouldn't we make it easier for the Pulaskis and Kosciuszkos and Marie Curies of today to visit our country?

We know that our borders will be no less secure because of these Polish visitors to our country. But we know that our alliance will be more secure because of this legislation.

I urge our colleagues to join us in support of this important amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 3220

Mr. NELSON of Florida. Mr. President, I call up amendment No. 3220.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 3220.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To use surveillance technology to protect the borders of the United States)

After section 102, insert the following new section:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

Strike section 102(a).

Mr. NELSON of Florida. Mr. President, the sole intent of this amendment is to take what the committee bill provides in enhancing border security by utilizing technology and enhancing and integrating and coordinating that technology, the use of electronic surveillance on the border to augment our border patrol, and the use of unmanned aerial vehicles, which are a much cheaper version than the military version, but you can see at night and can also see during all weather—to take that technology and integrate it and coordinate it is the intent of the amendment.

The amendment was born out of an inspector general's report of the Department of Homeland Security, as well as the GAO report on how we can use additional coordination of our technology to enhance our border security. It is as simple as that.

I am assuming that the chairman of the committee will accept this amendment because it is just a commonsense amendment. We want to secure our borders. There are so many people we can hire; therefore, we ought to augment those Border Patrol personnel to secure the borders.

Here are a couple of examples. Right now, under electronic surveillance, the signal will go off that somebody has penetrated the barrier. That signal will go to a DHS employee, who then has to activate a camera and search as to where that particular electronic sensor has gone off. That is inefficient use of

personnel. We have the technology. We can integrate it so that when the electronic sensor goes off—someone has crossed the border—the cameras in that particular location can automatically go off and record the event, that event can be sent out to multiple DHS substations, and it can also be sent out into a permanent databank so that we have a permanent record of that event. That is one example.

Another example is that you have an unmanned aerial vehicle, a drone, that is flying overhead and—same thing—an event is spotted. It is a crossing of the border illegally. Right now, that event is sent back to personnel in DHS.

Both the GAO report and the inspector general's report say you ought to integrate all that. It ought to likewise—that event—be sent back to multiple DHS substations for their immediate response, and it ought to go to a permanent databank where it is recorded so that we have this vast amount of data. That is the sum and substance of the amendment.

I inquire of the Chair, is there a previous order that I was allowed to offer just this one amendment, which is No. 3220? I have a second amendment that is parallel, No. 3221. What did the previous order require?

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is entitled to offer only one amendment.

Mr. NELSON of Florida. I see. Well, then, at some point, I will then likewise be offering a second amendment, which is quite similar. I explained a bit about it yesterday.

I will simply take this opportunity, while I have the floor, to point out what that amendment does, and the committee bill has moved in the right direction. The committee bill is providing 20,000 detention beds for people who are picked up for having been illegally in the country. What happens now is that somebody comes across into America, they are here illegally, and what do you know—we don't have the detention space in which to process them. They are released. There is one part of the border where up to 90 percent of the captured illegal aliens are released after being caught by DHS. Guess what happens. They completely disappear. Only 10 percent, approximately, appear for their subsequent immigration court hearings. DHS says we don't have any space. Presently, DHS has in the range of about 10,000 detention bed facilities. So 90 percent of captured aliens are released. The committee bill clearly is a step in the right direction. What they have done is doubled that to 20,000 beds. What my amendment would do is say let's be realistic: 20,000 beds is not going to cut it, and you are going to continue on this practice of finding an illegal alien and DHS is going to be required then to release them into American society, and they are not going to turn up again. We simply have to stop this.

My amendment is going to provide an additional 20,000 beds a year for 5 years or, in other words, to get us to the point after 5 years that instead of having 20,000 detention beds, we will have 100,000 detention beds and be able to meet this problem and stop releasing illegal aliens right back into society.

At the appropriate point, I will be offering amendment No. 3221.

Mr. President, I thank you for the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I believe under the previous order, Senators have been allowed to offer amendments as we proceed—not on the immigration bill but on an unrelated bill while the immigration bill is pending.

I ask unanimous consent to speak as in morning business for 10 minutes for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. LEAHY. Mr. President, I also ask unanimous consent that at the conclusion of the senior Senator from Louisiana's time, the Senator from Vermont then be recognized to speak on the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL ADOPTIONS

Ms. LANDRIEU. Mr. President, I thought it had been cleared to present an amendment and discuss it briefly and, at a later time, have a vote on the amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be submitted for the RECORD.

Ms. LANDRIEU. Mr. President, I offer this amendment on behalf of myself and Senator DEMINT. Senator CRAIG is also a cosponsor, and several other Senators who have been working actually for several years on this proposal. In fact, my great partner on this bill was the former Senator from Oklahoma, Mr. Nickles. Unfortunately, we couldn't get this bill through by the time he left. So I know he will be pleased we are continuing the good work he actually put into place.

This is an amendment that I think is going to get great support, broad-based support from both the Republican side and the Democratic side. While there are many issues in this bill that are extremely controversial and very difficult and complicated to work out, which is why it is taking us a good bit of time and our managers are struggling with it as I speak, this particular piece I think is going to be welcomed with open arms.

Actually, the subject of this amendment is for us to welcome children into this country with open arms. These are children who are being adopted in ever increasing numbers by American families. The number of orphans around the world is growing exponentially for many reasons—extreme poverty, war, violence, the growing AIDS epidemic—creating a tremendous increase in orphans around the world.

We are working in many different ways to address that situation, such as strengthening child welfare systems within countries of Africa, within countries such as China and India, as well as strengthening our own domestic child welfare system. Many things are underway in partnership with our Governors and our local officials to do that right here in America.

But the fact remains that despite our best efforts to strengthen families, to improve child welfare systems and procedures in our country and around the world, the number of orphans is growing. The good news, however, is Americans are stepping up in unprecedented numbers to adopt more children out of our foster care children who, through no fault of their own, have been separated from their birth families and some for very good reasons because they have been abused, neglected, and have been, unfortunately, in some instances, hideously tortured at the hands of people who are supposed to be caring for them.

We have increased the opportunities for adoption. This amendment I am offering, called the ICARE Act, as an amendment to this bill proposes to improve the international adoption process. We have increased international adoptions from 7,000 children abroad in 1990 to over 23,000 children by 2004.

You may know, Mr. President, of families from Georgia who have adopted children from other countries. In fact, Members of the Senate have themselves gone through international adoptions with great success and, of course, a great blessing to the receiving family and a great blessing to these children whose options were extremely limited to the countries from which they came.

This bill that has been thoroughly examined over the last several years by the authorizing committees would afford foreign adopted children the same automatic citizenship that is granted to a child born to an American family overseas. If you are overseas and you have a baby, that baby gets automatic citizenship. This would, at the act of adoption in a foreign country, provide that same coverage to children who are adopted.

Of course, those of us with adopted children try to explain to everyone that once you have adopted children, it is impossible to distinguish between children you have adopted and biological children. You love them the same and they are an immediate part of the family. Many of us have experienced that on our own.

The amendment would also eliminate much of the redtape and paperwork associated with foreign adoptions, centralize the current staff and resources working on international adoption into one office, the Office of International Adoption in the State Department, and it would enable our State Department

to provide greater diplomatic representation and proactive advocacy in the area of international adoption.

The fact is, in conclusion, since 1965, when these original laws were placed on the books, they have not kept up with either the pace or the change of international adoption, and that is what this amendment seeks to do.

So on behalf of Senator DEMINT, myself, Senator CRAIG, who serves with me as cochair of the adoption caucus, and others, I offer this amendment for the Senate to consider. When we get to the time when we can vote on some of these amendments, I hope to reserve some time to speak again about the importance of this amendment and, hopefully, it can be adopted by a voice vote. Hopefully we won't have to have a long debate about this, but if we do, I am prepared to debate this amendment for the thousands and thousands of families in America who, in their mind, are doing literally God's work by going to countries and adopting children who, without this intervention in their life, would literally, in many instances, die.

For Americans, the least we can do is reduce the redtape, honor their extraordinary commitment and their deep financial commitment, as well as to bring a child here at great expense and to raise them, and it is not cheap to do that in the United States. We want to honor that work Americans are doing and say we are reducing their paperwork, making things more automatic for them, all the while keeping our safeguards in place for a transparent, cost-effective system of intercountry and international adoption.

That is what my amendment does. Again, I offer it on behalf of myself and Senator DEMINT.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad the senior Senator from Louisiana is on the floor. I commend her for her statement. She has been a Senate leader on this very important humanitarian matter. We have discussed the question of international adoptions many times. I know how wonderful she has been in—I don't mean to embarrass her—not just her position as a Senator, but in her personal life. She has been wonderful. She has worked with Republicans, Democrats, and those who have no political affiliation on this issue.

I have to think that because of her work there are many children throughout this country who are going to have a life much better than they would have had otherwise. I commend my colleague. I am glad to serve with her and I know she wants to bring forward an amendment on this subject. I believe it is No. 3225, which I should also note is a bipartisan amendment.

I support this amendment, the ICARE Act. I hope we can agree to have it formally offered and successfully considered. International adoption cries out for this relief. I will work with my colleagues on the other side of the aisle to see if we can get this adopted. I would be surprised if there is any Senator—Republican or Democrat—who would object to it. I certainly will give it my strong support.

Again, I commend the Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator.

Mr. LEAHY. Mr. President, we were making some progress yesterday. We had a number of amendments that were adopted—one by the distinguished Republican leader and others. But then some tried to turn this into a partisan fight, and I think that is unfortunate. I hope we are back on track. We heard from a number of Senators on both sides of the aisle who support the bipartisan comprehensive bill, some of whom came down to speak for the first time in this debate. Senator MENENDEZ spoke from his unique perspective as one who was a Member of the House during their debate on their bill. He was there when they debated their immigration bill. It turned out to be a very narrow and punitive bill, which he opposed. He is now a Member of the Senate and is supporting a far better bill here today.

Senator NELSON of Florida described amendments in which he is interested. Senator LIEBERMAN spoke about an amendment which he and Senator BROWNBACK wish to offer relating to asylum. Senator BROWNBACK and Senator LIEBERMAN have this totally bipartisan amendment to which, for some reason, my Republican colleagues on the other side of the aisle are objecting. Senator KERRY spoke forcefully and eloquently.

I wish to speak for a moment about the comments made by the distinguished Senator from Colorado, Mr. SALAZAR. I was struck by his description of the slurs to which he has been subjected for his support of the comprehensive bipartisan committee bill. I talked with Senator SALAZAR, I think it was probably about 9:30 last night. He called me at home and we talked about his experiences. I told him how proud I was of him for standing up. Some of the things that were said were things such as: ''Go back to where you came from.'' His family came to North America in the 16th century, a lot earlier than either side of my family. He is justly and rightly proud of his background, his ethnic background, and the great contributions he and his family have made to this country. I think about how horrible it is that he has to face these kinds of slurs. We are trying to do what is right for all Americans. This is not a situation where we have tried to craft a bill for one group of Americans over others, and Senator SALAZAR has worked to help us accomplish this.

So these slurs are wrong and it should be unacceptable to all of us. Senator SALAZAR is an outstanding Senator who has made great contributions. He served previously as the attorney general of his State. He is thoughtful and genuine, and he approaches issues in a serious manner. I am deeply offended that opponents of comprehensive immigration legislation have subjected him to these slurs. Let us debate the issues and stop the name-calling.

I think that those of us, many of us, who have been called anti-Catholic or anti-Christian or anti-Hispanic or anti-southern or anti-women or anti-American, have been subjected to these attacks because those who disagree with us find it easier to smear than honestly debate the issues. I find it most unfortunate that a Senator of the quality and integrity of KEN SALAZAR would be subjected to this form of an attack. This seems to have become a new and unfortunate way to debate. It is almost like an ethnic or religious McCarthyism we are facing. People don't want to debate the issue, so they slam somebody and suggest base motives.

I remember in another debate when some Republicans disagreed with me, they tagged me as being anti-Catholic and anti-Italian. I thought of the slurs my Italian grandparents faced when they immigrated to this country, and what my mother faced as a young girl because she spoke a language different than others were used to. But I also think of the pride my Italian relatives felt, here in the United States and in my grandparents' home in Italy, when I became a Member of the Senate. I don't feel I have to prove my bona fides for any of my heritage. My father was proud of his Irish background and my mother was proud of her Italian background. They were both proud of their heritage, but they went through a difficult time at a different time in this country.

I think of the stories of when my father was a teenager and had to support his mother and sister because my grandfather died as a stonecutter in Vermont. At that time Vermont was a much different State. It was not the wonderful, proud State it is today. My father faced signs that said: ''No Irish need apply'' or ''no Catholic need apply.'' In their time, my grandparents faced similar things. That has changed.

I worry about those who are unwilling to debate issues of importance to this country, people who won't debate the merits, but simply attack people, as they have Senator SALAZAR or me with baseless religious or ethnic claims. It is a form of McCarthyism; it is just intolerance of a different nature. This Senate should be above that.

Those who have seen this happen, whether they are Democrats or Republicans, should condemn it. They should stand up and condemn it, as one of the greatest Vermont Senators ever to serve, Ralph Flanders, did when he supported a resolution of censure of Joseph McCarthy for what he was doing. They were members of the same party, and he condemned what McCarthy did.

President Bush called for a civil debate and I wish his supporters would follow that suggestion. I agree with the

President on this. We should have a civil debate. But I wish somebody, even one Republican, would step up and condemn the unfounded attacks and disassociate themselves from such poisonous conduct. We have a major piece of legislation here that will affect all 295 million Americans, and it will affect 11 million people who are here in an undocumented status in our great country. Let's talk about that and how we can best solve this difficult situation for the good of our country. Let's not impugn the character or the motives of any Senator.

During yesterday's debate, we had a procedural discussion that became unnecessarily heated. I have been here 32 years. Let's go back to having a Senate that will debate issues and get away from the polemics and the name-calling. During the course of the day yesterday, both the Democratic leader and I suggested, along with members of the staff, amendments on which we could have votes. Republican and Democratic amendments alike. I think if we had votes on these amendments, or even now if we had votes on these amendments, which are offered by Republicans and Democrats, some by both, we would have the kind of movement that, in my experience after 32 years, gets legislation through.

We sent an initial list of amendments to the other side that we believe could be scheduled for debate and votes. There is one by Senator BROWNBACK and Senator LIEBERMAN that has been rejected. It could pass with probably 80 votes in this body if it came to a vote. I don't know why we can't vote on that.

Some on the other side tried to turn this into a partisan debate. The Democratic leader, Senator MCCAIN, Senator KENNEDY, and others have taken a bipartisan approach. Senator SPECTER and I have worked very closely, along with our staffs, under extraordinarily difficult scheduling to get this bill on the floor. What we brought to the floor is a bipartisan product, and everybody says, let's have a piece of bipartisan legislation. The President of the United States has said that. Most columnists have said that. We say that in our speeches. Well, let's do it with our votes. Let's not do it just for the rhetoric; let's do it in reality.

The Democratic leader has filed a petition for cloture that I hope will be successful on comprehensive, realistic, and fair immigration reform so we can take action this week. If we don't, let's stay through the weekend and let's get this done. Let's get it done. Stop the polemics.

Finally, as I have said before, don't let politics in this country degenerate into an ethnic and religious McCarthyism, which is what this debate has become. As a man of faith, I am proud to be a U.S. Senator, but I will make my decisions based on what the facts are before me. I am proud of my ethnic background. I am proud of the rich culture it has brought to our family, as I am proud of my wife's background as a first-generation American and the language skills and the background she brought with her. I am proud of the diversity of my grandchildren. But I make my decisions as a Senator based on one thing: the extraordinarily solemn oath I have been privileged to take in this Chamber six different times. I am mindful of the extraordinary privilege it is to walk on this floor and to have a chance to vote. I will vote my conscience. I will bring to bear my skills and my background as a prosecutor and a lawyer, as a Vermonter, aided by as fine a staff as anyone could have. I will bring that experience to these votes. But I will not be cowed by the obscene and irrational name-calling by the other side; nor, as I mentioned earlier, will Senator SALAZAR, who is a man with an extraordinary background, tremendous integrity, honor, and abilities.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have not yet been able to reach agreement on voting on key amendments. We do have some peripheral amendments we will be offering and voting on. We have no agreement on laying down an amendment, but I believe there is no objection to having Senator KYL speak to an amendment he would like to lay down at a future time.

Mr. REID. Mr. President, we certainly have no objection to anyone speaking on this bill at any length they feel appropriate. But at this stage, we are not going to agree to set aside the pending amendment for laying down other amendments.

Mr. SPECTER. Mr. President, may I ask the distinguished Democratic leader if that applies to laying down an amendment?

Mr. REID. Yes.

Mr. SPECTER. I don't see the logic, but if we can move ahead for Senator KYL to discuss an amendment that perhaps one day he will be able to lay down and perhaps one day he will be able to vote upon it.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3246

Mr. KYL. Mr. President, yesterday I sought to introduce amendment No. 3246. I will not offer that again right now since the minority has indicated it would object to the offering of the amendment, but I will at least explain what it is. It is a very straightforward amendment that essentially addresses the future temporary worker program. I am not talking now about what is going to happen to the group of people who are here illegally today. We are talking about people who in the future might want to come legally from their country to work temporarily in the United States. For that group of people, there obviously needs to be a system for verifying their eligibility and for ensuring that program can work. It is estimated that it would take about 18 months maximum to make sure that all of the things would be in place for that program to work.

This amendment simply provides that things that the bill calls for to be in place within that roughly 18-month period of time would actually have to be in place before the temporary worker program commenced. In other words, it answers the question that many people ask: If you grant people a right to come to the United States and work here, how can we be sure that you have done all of the other things you have said you would do? In effect, this answers it by saying the temporary worker program doesn't start until we can certify that those other things were done.

All of us have talked about the need to ensure that we have enough detention spaces for people who came here illegally and need to be detained; that we have enough Border Patrol agents; that we have enough appropriation for some of the other things the bill calls for—and we are talking about the underlying bill. Given the fact that we all seem to agree that those things need to be done, what this amendment does is answer the question, How do we know they will be done? One way we know they will be done is the temporary worker program doesn't kick in until they are done.

We are not talking about in toto, we are only talking about 18 months' worth of the program. For example, we know that the number of people within the Department of Homeland Security who will be required to investigate compliance with immigration laws related to the hiring of aliens needs to be increased by 2,000, and those people would need to have been employed. We know the number of Border Patrol agents within the Department would be increased by not less than 2,500 more than on the date of enactment. That is approximately 1 year's worth of increase in Border Patrol agents. In addition, detention spaces I mentioned would have to be increased to a level of not less than 2,000 more than the number of beds available on the date of enactment. That is about the number that would be created in 1 year's worth of activity under the bill.

The point is, we say there are certain things we have promised would be done. In order to make sure that promise is kept and to answer that question of the American people who say: How do we know, since the law hasn't been enforced in the past, that you are going to enforce the new one, one way we can demonstrate that is to say that the temporary worker program under the new law doesn't kick in until these certain objectives have been satisfied.

They are not unreasonable. They are what is already called for in the bill. If we mean what we say in the legislation, then this amendment should not be a difficult amendment to adopt.

I reiterate that this applies to what some on the staff have called future flow workers. It does not apply to the people who are here illegally today. There is a separate temporary worker program for those people. But for future flow, in order to make sure that program will work, we have to have certain things in place. This bill would require that some of the things that we have promised would occur within that year's period of time would, in fact, have to be in place before this new temporary worker program would kick in. As I say, when we get an opportunity to offer that amendment—it is amendment No. 3240—I hope it will be adopted.

AMENDMENT NO. 3206

Let me also speak to an amendment that is pending. It is the pending business, but we haven't been able to get a vote on it. The number on that amendment is No. 3206.

What this amendment implies is that people in certain categories would not be able to participate in the program, and those categories are primarily people who are criminals or people who are absconders. By ''criminals,'' we mean people who have been convicted of a felony or three misdemeanors.

The current law provides that if you have been convicted of a crime of moral turpitude or a drug-related crime or five multiple offenses that amount to 5 years in prison, you cannot participate in the program. That is fine, but it leaves out a lot of other crimes. I read the list of crimes yesterday that would not be covered under the existing bill.

What this amendment says is, if you have ever committed one of these other crimes or if, instead, you have committed one of these other crimes, then the program would not be available to you, either. Let me note what a couple of those other crimes would be. Crimes which are not covered under the current bill but which would be included in this amendment include burglary, involuntary manslaughter, loansharking, assault and battery, possession of an unregistered sawed-off shotgun, riot, kidnapping, making a false statement to a U.S. agency——

Mr. DURBIN. Will the Senator yield for a question?

Mr. KYL. Yes, I would be happy to yield.

Mr. DURBIN. Will the Senator help me understand his amendment? As I understand it, he has spent a great deal of time explaining crimes that would be included which would disqualify a person from the possibility of legalization, but he has not spent time discussing what I think is the more troublesome aspect of his amendment, which would say that if a person overstays a visa, he or she would be ineligible for legalization.

If I could concede to the Senator from Arizona that, if he is going to add the crimes he has mentioned—I happen to think they are currently covered by the bill before us, but if there is need for some clarification in that regard, I think we could work on it—but would the Senator be kind enough to address that basic issue? Are you saying if a person, currently on a student visa, is failing a class, drops the class, no longer is a full-time student and is therefore out of compliance with the student visa, that person by virtue of dropping that class has now disqualified himself from legalization under the bill that is before us?

Mr. KYL. Mr. President, I am glad the Senator from Illinois asked the question. That was the second point I was going to get to. The first had to do with crimes, but I will be happy to leave that conversation and move to the absconders, as I said. ''Absconders'' is the word that is used to describe those people who have been ordered by a judge to leave the country because of something they have done—more than simply overstaying a visa—and have refused to do that. In other words, they have already demonstrated an unwillingness to comply with an order to leave the country.

Obviously, part of the enforcement of all of this legislation depends upon our ability to enforce the law for people who are unwilling to comply with the law's terms. If someone has already demonstrated an unwillingness do that, it seems to me they should not be eligible. And let me go on to say that the suggestion that a simple visa overstayer is caught up in this is not true—not true.

Mr. DURBIN. Will the Senator yield?

Mr. KYL. Why don't I explain it, and then the Senator from Illinois won't have to keep asking questions about what it actually does.

There are four different sections. One of them has to do with the removal of people where there has been a formal proceeding and the alien has been detained. That is section 238. There are probably about 20,000—well, probably more than that, but there is at least a minimum of 20,000 because many of those are other than Mexicans. We do not have the number for people, for example, who would be Mexican citizens.

There are also formal proceedings before an immigration judge. This number of absconders is far greater. That is section 240. There are a lot more in that category, perhaps 200,000 to 300,000 people.

Mr. DURBIN. May I ask a question?

Mr. KYL. Let me finish the discussion so the Senator will not have to interrupt and ask questions, please.

Third, there are the situations where you have visa waiver countries where, because of the terms of the visa waiver, there has been a prewaiver of a right to contest removal, so there is no formal proceeding. There are about 900 removed under that provision per year. So this is not just visa overstayers. There are millions of visa overstayers, obviously. And finally the category of expedited removal, which is section 235, where an alien is detained until deportation. We don't have data on how many were deported but are still in the United States.

These are categories of people where it is not simply violating it—it is not coming into the United States illegally that triggers a visa overstayer. In fact, I am not sure we wrote this broadly enough because a visa overstayer such as Mohamed Atta—somebody from a country that does not have a visa waiver, from a country such as Saudi Arabia—would not be caught. So here is Mohamed Atta who overstays his visa, flies an airplane into the World Trade Center, and he would not, even under the amendment we have provided here, be precluded from participating in the program.

What I am saying is I don't think we drafted this quite broadly enough, but it makes the point that merely overstaying the visa does not catch you up in this particular bill. So it is wrong to say all we have to do is overstay a visa and this amendment would catch you up. That is simply not the case. The number probably caught up in this would be in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KYL. I would be happy to.

Mr. DURBIN. Mr. President, here is what I understand the law to be and what your amendment says. The law, as I understand it, is if you are in the United States on a student visa from a foreign country, you are required to be a full-time student and to stay. If you are failing a course, you drop out of the course, you are no longer a full-time student and, therefore, you are ineligible to stay on a student visa. At that point, you are subject to a final order of removal which means you can be deported from this country, having a presence in this country that is not recognized by your student visa because you dropped the course.

Now let me read what your amendment says. It says:

> An alien is ineligible for conditional nonimmigrant work authorization and status under this section if the alien is subject to a final order of removal.

Mr. KYL. Keep reading.

Mr. DURBIN. ''Under sections 217, 235, 238, and 240.''

My question to you is this——

Mr. KYL. Mr. President, let me reclaim my time. The reason I said ''keep reading'' is because I just read to you under each of those sections, 217, 235, 238, and 240, the specific circumstances under which someone would be precluded from participating in the benefits of the bill. It is not, with due respect, as the Senator from Illinois said, overstaying a visa. You have to have been subject to one of these four specific sections.

As I said, the first one is a visa waiver. There were 900 people last year who were removed under that. It wouldn't

even include a person such as Mohamed Atta, as I said.

I need to go back and try to fix the amendment with regard to that. Sections 235 and 238 are the expedited removal of aggravated felons and I am sure the Senator doesn't want to allow those people to remain. Section 240 is where there has been a formal appearance before an immigration judge and a person has specifically been ordered to depart and has not done so.

It is simply wrong to say if you come across the border and stay here, or if you overstay your visa, you are caught up in my amendment. My amendment is much more specific than that and specifically only deals with those people you would not want the benefits to apply to.

Mr. DURBIN. Mr. President, if I might further ask a question without asking the Senator to surrender the floor, of course, let me ask this question: What you said and the last thing you mentioned was if you were in the United States and had an order issued that you will leave, depart, but the language of your amendment doesn't say that. The language says you are subject to a final order, which means you could be—you could be—subject to a final order. You are not saying a final order has been issued for deportation, and, therefore, you are ineligible. You are saying you are sure. If I have overstayed my visa, sadly, I am subject to an order of deportation, even if it has not been entered.

Mr. KYL. Mr. President, let me answer the question again by saying I know my colleague is a good lawyer, but you have to read the whole sentence. You can't read half of a sentence and drop off the last part of the sentence. It specifically says under section 217, 235, 238, or 240. It is not simply subject to a final order of removal. It is subject to a final order of removal under one of those four sections.

The last section the Senator referred to is section 240. That is where there has already been a formal proceeding before an immigration judge, an order of removal has been issued, and it has been violated. Yes, the person is subject to a final order of removal because that person has already violated the judge's order.

As to each of these sections, as I said, there is a specific reason why it is included and why it isn't merely subject to a final order of removal.

Mr. DURBIN. Mr. President, if I might further ask a question, if the Senator from Arizona wants to make it clear that overstays on visas do not disqualify you from the pathway to legalization unless a final order has been entered saying you must be deported, I wish the Senator would clarify that language. As it stands, you have said if you are subject to—meaning you could be charged with—having overstayed your visa, you could be deported then you are disqualified. I think if you would clarify and tighten the language, it would overcome some of the serious concerns we have. The example the Senator used in other cases of terrorists and people we clearly don't want in the United States, I don't think you will have much, if any, argument. But when it comes to this particular circumstance, I think the language is subject to an interpretation you may not want.

Mr. KYL. I appreciate the suggestion of the Senator from Illinois. It is a usual legislative drafting tradition to say what you mean by referring to other sections of law and only those sections of law that you intend to cover. That is what we have done here. We have not referred to sections of law that would refer broadly to anyone who has overstayed a visa.

Let me reiterate. The Senator asked about the court proceeding. That was the section 240 I referred to. That is specifically where there has been a proceeding. The others I mentioned I will reiterate again.

The visa waiver: As the Senator knows, there are 27 countries where we have a relationship with a visa waiver. What that means is the individual, upon entering the United States, waives rights somebody under section 240 would not have waived because they do not even have to present a visa to the United States. They, in effect, agree as they come in, as a condition to the use of that provision, to be removable for violation of their visa.

As I said, last year, according to our information, a grand total of 900 people were removed under that particular provision.

This is not something on which we round people up and send them home. The expedited removal, sections 235 and 238—as I said, 238 is the removal of aggravated felons—and expedited removal under the provision the Department of Homeland Security has now established for other than Mexicans who come to the United States, for whom there is no detention space and who are being removed from the United States, are subject to this as well.

To talk about what this problem is and why we are trying to solve it, you have 39,000 Chinese citizens in the United States illegally whom the Chinese Government won't take back. There are similar numbers of people from other countries, although I do not know of any quite that large.

It is not a simple matter with people from countries such as this to take them to the Mexican border and turn them over to Mexico which obviously won't take them. They are not Mexican citizens. We don't have the detention space right now to accommodate about 165,000 other-than-Mexican illegal immigrants. The Department of Homeland Security has announced their streamlined procedure of expedited removal where it tries to get the country to take the individual back within a period of less than 4 weeks. They are trying to get it down to a couple of weeks.

But as I said, many countries won't take them back. What happens is you end up with people we don't have a place to put. There is no detention space available. They are given an order to appear before the court in 90 days. Basically, they are released on their own recognizance and asked to come back in 90 days to the Department of Homeland Security and show up for their removal. They do not do so. There is no place to put them. They do not show up for removal, and they meld into our society.

I doubt the Senator from Illinois is saying these—I believe it was about 165,000 such people last year—are people we should put on a path to citizenship.

Those are the four categories of people we are talking about: aggravated felons, people who have already violated a court order, expedited removal, and a small number of visa waiver people.

It does not apply to you simply if you overstayed your visa or if you came into the country illegally and, therefore, violated our law that says you are to present yourself at a port of entry. They violated that law. But merely coming into the country illegally is not covered by this amendment.

So the roughly 12 million people, or however many we are talking about here, would not be covered by this; at most, perhaps, in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, if the Senator will yield for a question, I understand the Senator's explanation, and I have to go back to a point that I think if he would clarify his language in his amendment, it would allay some of the fears we have.

Let me give an example of why we are concerned. In the original Cornyn-Kyl bill that was introduced, it was a question about the ineligibility of aliens, or deferred mandatory departure, or a similar circumstance where they would not be recognized and given this opportunity. Your language in that instance said it would be an alien who would be ''ordered, excluded, deported, removed or to depart voluntarily from the United States.''

There was specificity there. The decision had been made. I think that is a lot clearer and more consistent with the explanation you have given us than the words ''subject to a final order'' which I think is much more general in scope and perhaps too broad, maybe leading to my conclusion that may not be consistent with your intent.

I ask you if you would consider tightening your language here as you did in the original bill with Senator CORNYN so we know exactly what we are dealing with.

Mr. KYL. Mr. President, I appreciate the suggestion. I would be happy to visit with the Senator from Illinois who, as I said before, is a good lawyer and who understands the details of this to make sure we are denying the privileges of the underlying legislation only to those people whom we intend to deny those privileges to. I think we

have a rough meeting of the mind as to who those people are.

I will say, however, it does get difficult because when the Senator from Illinois says, for example, we don't just want visa overstayers to be caught up in this, as a general proposition, I agree with that.

What that means is, of course, Mohamed Atta and many of his cohorts would not have been denied the benefits of this legislation because they simply overstayed a visa.

The point here is it is hard to draw these distinctions and deny the privileges to people you don't want to get them and yet not sweep too broad a broom and preclude people you have no intention of denying the benefits to from participating in those benefits.

Mr. DURBIN. Mr. President, will the Senator yield again for a question?

Mr. KYL. I would be happy to yield again.

Mr. DURBIN. Mr. President, please let us not wave the bloody shirt of Mohamed Atta. He would be disqualified from this program under existing law. Terrorists are not going to be given a legal pathway to citizenship in America. No one wants that to happen, none of us. So I don't think that was a good example of why we need the Kyl amendment.

Wouldn't you agree that in language already in the bill before the Senate, Mohamed Atta wouldn't have a prayer if he said, I want to stick around; I know I have been convicted as a terrorist, but I want to be an American citizen?

Mr. KYL. Mr. President, with all due respect, I think that question was pretty far off the mark. Mohamed Atta committed his crime before he could have been convicted of being a terrorist, and he obviously killed himself in the process. The time to apply this legislation to him is not after the fact but hopefully before the fact.

The problem is that at the time he overstayed his visa, to our knowledge, he had not committed any other crime except perhaps forging some documents or making false statements to an immigration official—something such as that.

What I am saying is we have drafted this in a way that it would not have caught people such as Mohamed Atta because to do that would be to exclude others from the benefits of the legislation both the Senator and I agree should not be excluded.

I am simply trying to say we have to be careful with the language because if we simply say—and I know the Senator from Illinois would agree with this proposition when he says we don't want to exclude just people who have overstayed their visas, and he gave the example of the student who overstayed a visa—I know he doesn't mean to include within that somebody such as Mohamed Atta because the reality is that is exactly what we have done here. If we could find some other way to add a provision that says if we have evidence to believe somebody is a terrorist, they would also be included, that probably would be a good idea, and we would both agree to do that.

Mr. DURBIN. The bill explicitly says if you want to move toward legalization, you have to submit yourself to a criminal background check; no criminal record. Frankly, I can't imagine there would be a terrorist who would say, I will wait patiently for 11 years, and I will submit to a criminal background check so that in the 12th year I will commit an act of terrorism.

Mr. KYL. Mr. President, it may well be that Mohammed Atta may not want to take advantage of the provisions of the act. That is speculation. Although these terrorists did take advantage of our immigration laws in many respects, we did not expect them to do that. We thought they would sneak into the country. Instead they filled out the forms and came in, many of them, with legal visas. I am not sure we can assume what he will do or what he will not do.

Here is the point: Under the bill as drafted, only crimes relating to drug offenses, moral turpitude, and the conviction of five offenses totaling 5 years in prison would exclude someone from the benefits. That is why we have added the other elements which, by the way, I inform my colleague from Illinois, the conviction of a felony and three misdemeanors, are precisely the language from the 1986 bill.

Those who think the 1996 act was unworkable and amnesty and not a good idea should be aware that all we are doing with respect to the criminal violations is taking that same language and putting it into this bill.

We have had a good discussion of this amendment. I am happy to see if there is any way to further clarify the language that might get the Senator from Illinois to support the amendment. I want to get a vote on it.

As I said before, I want also to be able to lay down the previous amendment which simply provides a trigger that before the temporary worker program kicks in, certain things we promised to do under the bill would have been done.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there has been an agreement to take up a number of noncontroversial amendments. We are still trying to get a vote on the Kyl-Cornyn amendment, still trying to work out a procedure so Members on both sides of the aisle may offer controversial amendments, but we have not gotten there yet. However, there has been agreement on four noncontroversial amendments. I give notice that we will take them up as soon as the authors can come over.

Mr. KYL. Will the chairman of the Judiciary Committee tell us what those four amendments are?

Mr. SPECTER. I would. And before we can do it, we have to have consent to set aside pending amendments.

Mr. KYL. Because I advise you in advance I will object to setting aside pending amendments for consideration of further amendments.

Mr. SPECTER. The ones agreed to are these, and we cannot proceed until the pending amendment is set aside: Mikulski-Warner, 3217; Collins, 3211; Dorgan-Burns, 3223; and Isakson, 3203. But we cannot take them up, as noted, unless we have consent to set aside a pending amendment.

Mr. KYL. Mr. President, I note that under the regular order, my amendment is the first in line, having been offered on Thursday. These are subsequent amendments. It seems to me our colleagues would be willing to take up these amendments in the order they were offered.

What is curious to me is why some amendments are more worthy than others to be voted on. Maybe it is that people don't want to vote on certain amendments because they are troublesome. But if the object here is to try to get this bill completed, then we have to agree on some fundamentals, and that is that all the amendments that have been offered ought to be voted on. It is logical they would be voted on in the order they were laid down. There is no reason anyone can give me why there shouldn't be a vote on the amendment I laid down and that that should not precede the other amendments. I consider mine at least as worthy as the other amendments, particularly because it goes directly to a point in the underlying bill, and to my knowledge, the other amendments, by and large, do not do that.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let us understand where we are at this moment. In the colloquy with Senator KYL, I raised an element of his amendment which we, I think, generally agreed needs to be clarified. I hope we can work toward clarification.

The Senator from Pennsylvania, the chairman of the Senate Judiciary Committee, has asked whether we can now take up amendments which both sides agree would be constructive, moving us toward our goal of final passage, on a bipartisan basis, asking the Senator from Arizona, would you please set your amendment aside, perhaps to work on the subject of your colloquy a few moments ago, and then you will be back in the queue.

We are not only prepared, incidentally, on the Democratic side to entertain the four amendments which have been spelled out by the Senator from Pennsylvania, we are also prepared to debate and vote on at least three other amendments, the Lieberman-Brownback asylum, an Allard amendment 3213, and a Nelson amendment 3220.

So the argument among some that we are stopping the amendment process is not true. At this point, the Senator from Arizona is stopping the amendment process because his amendment, which is not quite in the shape it

might be in, or wants to be in, is going to be first or nothing else. I hope that is not where we are going to end this.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. With all due respect, I think that is a bit of spin to say I am stopping the amendment process. On Thursday, Friday, Monday, and Tuesday, I asked unanimous consent to proceed to amendments. Democrats objected. The amendment following mine is the amendment of the Senator from Georgia. That is not on the list, either.

What is happening is that the Democratic side wants to vote on certain amendments—most of which do not go to the heart of the bill—and does not want to vote on other amendments.

What we are saying is, we have a right to lay down amendments and vote on those amendments. I am happy to vote on every single amendment that has been laid down. But Members on the other side will not give me an opportunity to lay down another amendment. I have asked for that repeatedly. Unanimous consent has been denied. I asked the distinguished minority leader this morning. He said no, there would not be consent for me to even lay down the amendment I just got through talking about.

So let's understand that the objections to moving forward are not on this side. They are on the other side. I simply ask for the regular order.

Mr. DURBIN. If there is no objection on the other side, I renew that unanimous consent that we move immediately to consideration of Mikulski-Warner, 3217; Collins, 3211; Dorgan, 3223; Isakson, 3203, with 2 minutes of debate evenly divided before each vote, and that we start taking those up immediately. I ask unanimous consent to move forward.

Mr. KYL. Reserving the right to object, I offer an amendment to that unanimous consent request which is that those amendments occur as identified but to be preceded by a vote on amendments that are in the regular order.

Mr. DURBIN. Reserving the right to object, we are back where we started. Senator KYL will not let a single amendment be considered unless he is first. We have a bipartisan agreement to move to four and perhaps three other worthy amendments while he works on the language of his, which is not acceptable. We have reached an impasse, and I object to his modification of my unanimous consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. SPECTER. Mr. President, without being repetitious, although repetition is only a minor vice here since nothing of consequence is likely to be said in any event. Moving this bill along, Senator KYL has accurately articulated the situation. We are being prevented from voting on amendments which have priority in sequence, where we ought to be voting, and it is just make-work to take up other amendments. It would occupy some time and we would have fewer quorum calls, but it does not move toward the heart of the issue. Senator KYL ought to be accorded the opportunity to vote on his amendment. The rules have brought us to an absolute impasse again. So then we have another day wasted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I will take a minute. On Thursday of last week, I offered in this Senate amendment 3215 which is pending after the amendment by the distinguished Senator from Arizona, the Senator from Texas. On Friday, when the majority of the Senate went home and there were no votes, I stayed in this Senate for 3 hours and presided in order for Senator BINGAMAN and Senator ALEXANDER to offer their amendments. We had last week a spirit of cooperation in this Senate to ensure that suggestions and amendments of the Members would be dealt with as expeditiously as possible. The Senate stayed in session on Friday to accommodate Democrats and Republicans alike with the understanding we would proceed in regular order this week.

To blame the Senator from Arizona for being obstructionist is totally incorrect. The fact is, there are other amendments following his that would equally be objected to by the distinguished minority whip. So we are frozen at this time because there is a lack of spirit of cooperation in order to consider issues that are important to the people of the United States of America on what I consider to be the most important domestic issue in the United States of America.

So singular blame on any one individual such as Mr. KYL is not only inappropriate, it is not right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I become very frustrated when it is evident that nobody wants to do what is the will of the Senate. It is a historic responsibility when you bring a piece of legislation to the Senate, which is to allow Senators, Democrat and Republican, to work their will with offering amendments that are, hopefully, germane and responsible to be debated and voted on.

Why would I want any amendments? I have all I want in the bill. The Judiciary Committee included agricultural jobs, a guest worker revised program, and a program that will deal with illegal undocumented workers already in country that relate to agriculture in the bill.

Would I want anymore amendments? In fact, the Senator from Georgia has already offered an amendment against me. One of my colleagues on this side of the aisle has openly said he wants to kill the AgJOBS provision in this bill, and he has a multiple of amendments he wants to offer. I am willing to let him offer them. I am willing to debate him. I think I can defeat him. I hope I have the prevailing argument.

But what is at hand here is a very important piece of work done by the Judiciary Committee, S. 2454. I am not going to suggest it is perfect in every way. The amendment process does refine and direct the will of the total Senate instead of the will of a single committee.

I suspect the chairman of the Judiciary Committee would be hard pressed to say this bill is flawless, it is perfect, it is without reproach. That is not what my phone calls are saying. That is not what the public is saying. In fact, the public in many instances disagrees with the provisions I have put in the bill.

What is important is exactly what the other Senator, Senator ISAKSON, said. This is one of our major domestic issues. It is an issue of national security. It is an issue of border control. It is an issue of recognizing the diverse economies of our country and the need for an employment base that is legal, documented, and controlled. It is a matter of immigration.

To suggest we are going to play games with who is on first and who is on second about who makes an amendment, who offers an amendment—why is the other side so nervous and frightened that somehow this bill might be changed a little bit? Better or worse, I don't know.

I think all who have spent time on this issue and know the issue are certainly willing to debate it or we wouldn't be with the issue. We would simply be running politically away from it as this Congress has done for a good number of years.

But the American people, in frustration, in anger, in fear, are now saying deal with it, control your border, our border, our Nation's border. Define and prescribe, background check, inspect those who cross it, at the same time, recognize that a certain type of employee is critically necessary in American agriculture to do the tough, hard, backbreaking work in the fields of America or to change the beds in our resorts or to work in certain forms of manufacturing or in oil patch.

Now, that is at that level of work, and that is an entry-level job, and it is critical to our economy that we have them. Americans, on the large part, have chosen not to do that kind of work anymore. But I recognize the need to recognize American citizens who do, and in my AgJOBS reform of the H–2A program, we create a national labor pool and recognize, first, if someone who is an American citizen is seeking that kind of employment, we make sure they are eligible and eligible first. It is Americans first in this instance, as it should be.

At the same time, there must be a clear recognition that there are now millions in this country, yes, here illegally, but all of them working, and working hard, and paying taxes, and not getting the benefit of those. Why?

Naturally, they are not citizens. We understand that. They probably ought to go home when they are through working, and 90 percent of them want to go home. But the irony is, as we continue to control our border, we create an impenetrable line, as we should, and those who have moved back and forth across that border historically no longer can do that.

Well, it is an interesting thing. It is an interesting issue. The House tried to deal with it in one way—I do not think appropriately, I do not think responsibly. I am not suggesting it is not responsible to control the border. We are doing that in this bill. But I believe we are doing it in a much more sensitive and humane way.

The border has to be secured or what we do here will not work. You cannot try to control and identify and direct employment traffic, if you will, in this country if you cannot control the flow of the traffic. That is part of what we are all about in trying to deal with this issue.

There are those who would say: Round them up and throw them out—round up 8 million, round up five times the size of the population of the State of Idaho and somehow identify them and treat them as legally as you have to under the law and get them out? We cannot do that, will not do that. It is impractical to do that. That is what this bill has struggled to accomplish.

But let's stop and suggest that if this is the issue we all believe it is, why are we fearful of amendments? Why has the other side sleepwalked us for the last 2 days? We ought to have voted on 3, 5, 8, 10 amendments by now. What are we fearful of?

I have my provision in the bill, but let Senator CHAMBLISS amend it. Let him try. Let us debate it. Let us see the differences between what he believes and what I believe. We both agree on so many things as it relates to the agricultural employment base, but we disagree on some things. There is nothing wrong with that kind of healthy debate. I do not fear it. I will not fear it.

And I must say to my colleague from Illinois, when you tried to make the straw person the Senator from Arizona, there is an expression south of the Mason-Dixon line that is simply said: That dog don't hunt. Find a new straw person. This one does not work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, and so the Senator from Idaho says we ought to have considered three, five, eight amendments by now. Well, he suggests we are sleepwalking. Perhaps he was sleepwalking when we considered three amendments, the first by Senator FRIST, the Republican majority leader, the second by Senator BINGAMAN, the third by Senator ALEXANDER. And the fourth was a motion by the Senator from Pennsylvania to table the Kyl amendment. It is not as if we have not been considering amendments. If I am not mistaken, moments ago I suggested, let's move to four right now, and maybe seven. So let's move forward on these amendments.

So to suggest we are not moving through the amendment process is not accurate. To suggest we are sleepwalking—if you were wide awake, you would be aware of the fact that we voted on three amendments already on this bill and others were just denied an opportunity to be called just moments ago on the floor by the Senator from Arizona.

It appears now that those who oppose this bill or those who want to slow it down are intent on making the Kyl amendment the way to do it. I would say that Senator KYL and I had a colloquy just a few moments ago on the floor, and it was very clear to me that his language in the amendment needs to be changed so that it is clear to everyone what he intends to achieve.

I thought that is where he was going. I thought that is what he acknowledged. But having even acknowledged that, he will not allow another amendment to come forward while his is still pending on the floor. That is unfortunate.

It was said earlier that——

Mr. CRAIG. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. CRAIG. You are really going to suggest that the last 2 days of effort are called heavy lifting? Shouldn't we redefine what work in this body is all about?

Mr. DURBIN. I would say in response, I do not believe I used that term.

Mr. CRAIG. You did not use that term; I just did. But you have suggested we have been at great industry here over the last 2 days?

Mr. DURBIN. No. I can tell you—reclaiming my time, I would say to the Senator from Idaho, most of the work that has been going on has been off the floor in the Republican caucus because the Republican majority has to decide whether we are going to have a comprehensive immigration bill. There are 55 votes on their side of the aisle, 45 votes on our side of the aisle.

We are standing firm in the belief that the bipartisan bill which emerged from the Senate Judiciary Committee, with the support of the Republican chairman, Senator SPECTER, is the good starting point for us to really address comprehensive immigration reform, for the first time in decades.

The heavy lifting has been off the floor while the party of the Senator from Idaho has been trying to decide their place in history. Will they be part of a comprehensive bipartisan immigration reform or stand in its path? They have to make that decision. We cannot make it on the floor for them. The sooner they make it, the better.

Last night, the Democratic leader, Senator REID, filed a cloture motion to make it clear there will be a moment of reckoning. Here on the Senate floor, in very short order, the Republicans and Democrats will face a basic choice: Do we stop, do we kill this bill, this bipartisan comprehensive immigration bill or do we move forward? I hope we move forward because I think this is a good bill.

When I listened to the Senator from Idaho talk about enforcement, well, let me say, the enforcement provisions of the bill before us are amazing. And I use that term advisedly. But they are amazing.

We increase the number of Border Patrol agents over the next 5 years by 12,000—12,000. Currently, there are about 2,000. Think about that. What a dramatic increase in making our borders safer.

We increase the number of interior agents going after those who should not be in this country by 5,000 over the next 5 years.

Agents dedicated to combating alien smuggling, up 1,000 over the next 5 years.

We also require the Department of Homeland Security to construct at least 200 miles of vehicle barriers at all-weather roads in areas known as transit points for illegal crossings. This is in the bill before us.

We understand, as most would concede, that America's borders are out of control. They are broken down. Part of any comprehensive immigration package must have strong enforcement. The bipartisan bill before us does exactly that.

It goes on to require primary fencing in areas where we think it is necessary to stop illegal crossings. There are technology enhancements, replacing existing fencing, constructing vehicle barriers in certain Arizona population centers. The list goes on and on. Criminalization—greater penalties for those crossing the border illegally.

All of these things indicate this is not just a bill dealing with legalization, it is a bill dealing with enforcement. We took the provisions which Senator FRIST, the Republican leader, offered and we duplicated them. So to argue the bill before us is weak on enforcement does not stand up. It is strong on enforcement.

But let me be clear. Our lesson is this: Simply increasing enforcement will not solve the immigration problems of America. We have 2,000 border agents now. We have increased them over the years. We have done a lot over the last 4 or 5 years, and illegal immigration has continued. You need to do more.

In addition to border enforcement, you have to do two things. You have to deal with the employment. What is the magnet that draws people across that border into the United States? It is the prospect of a job, a job that will pay much more than they can make in their villages in Mexico, in Central America, or in Poland or Ireland, for that matter.

What we do is say that the employers who illegally hire people and exploit

them are going to be held accountable. There are tough penalties under the law. So border enforcement is tough. Employer enforcement is tough, as it should be.

But there is a third element. The third element gets to the heart of the issue. What are we going to do about 11 or 12 million people currently in the United States who are not documented? If you listen to some of the cable show hosts, they say: Send them home. Deport 12 million people. That is totally unrealistic. Physically, it could not be achieved. If it could be, it would be an expense far greater than anyone could imagine for this country.

What we have to do is have realistic, tough, fair answers. Here is what we have come up with. If you are here, having overstayed a visa, or without documentation, in the United States, we will give you a chance, a chance to become legal. But it is a long, hard road. It will take you 11 years—11 years—of your life. You better be committed to being part of America's future—11 years.

In the course of that 11 years, it is not going to be easy. If you break the law, you are out. If you are not working, demonstrating employment, caring for your family, you cannot qualify. If you do not pass a criminal background check, you are out. If you do not pay a fine of several thousand dollars, you are out. If you have not learned English, you are out. If you have not paid your back taxes, you are out. If you do not understand this government, its history, and what our country is all about, you cannot qualify.

Do you call that amnesty? Does that sound like something that is automatic, moving to the head of the line, a free ride? It is not. It is a hard, tough process.

I come to the floor—and I have said it before; I want to repeat it, as many have in their own personal circumstances—as the son of an immigrant. My mother was brought to America at the age of 2 in 1911. My grandmother brought her, her brother, and sister over on a boat from Lithuania. They landed not at Ellis Island but in Baltimore. They caught the train to St. Louis and went across Eades Bridge over to the east side of the river in East St. Louis, IL, to meet up with my grandfather, who was working in common immigrant labor—steel mills and stockyards and things we did in that part of the world.

I do not know if my mother, who became a naturalized citizen in her twenties, could have met the qualifications of this bill—all of them. They are tough. They are demanding. I hope she could have, but she may not have. Fortunately for me, she became a naturalized citizen. I am very proud of that. She raised a family with my dad—three boys, and one of them turned out to be the 47th Senator from the State of Illinois.

That is an American story, a story repeated over and over and over again. We want this bill to reflect American values. We want this bill to basically say: We are going to fix a broken immigration system. We are going to repair our borders with real enforcement. We are going to make certain that the employers who are making this situation even worse are going to be penalized. We are going to do that and give those who are here a chance to become legalized.

The Presiding Officer up here from the State of South Carolina has been very articulate about this issue. He has spoken out in many places, and I admire the statements he has made. He has noted the fact that there are many people currently serving in the U.S. Armed Forces who are not citizens. That is a fact. You do not have to be a citizen to serve as a soldier. And many of them are risking their lives today, in uniform, for the United States of America. Over 50 have been killed in Iraq. They are not legally citizens but serving their country they love, willing to risk their lives for this country.

It has been raised by the Senator from South Carolina, and others: What are we saying to them? What are we saying to those who have served, those who have risked their lives and may come home having lost a limb or suffering some serious injury? Are we saying to them that their parents, their family, must still live in the shadows of America? Or are we going to give them a chance? That is what this bill is all about.

So we have a strong bipartisan bill, supported by the Senator from Pennsylvania, supported by three other members of the majority party in the Senate Judiciary Committee.

It is true. We have been rather steadfast in our belief that this process has to move forward. And we only have a few days to try to capture the moment and to bring together the political forces to do something historic.

Last Saturday, I went to a high school in Chicago. Cristo Rey is a Jesuit high school in an area of Chicago that has a largely Mexican population. It is an incredible school with dedicated teachers, administrators who are trying to give kids a fighting chance. They know what the statistics tell us. Fifty percent of Hispanic Americans drop out of school. So they are fighting against the odds to keep these kids in school. I stood there on a stage with about 20 students from that high school and surrounding high schools, some who had graduated a few years ago and some who were currently about to graduate. I listened to their stories.

Oscar Ramirez was there. I had met him before. He said: Senator, the last time you met me, I was pursuing my degree in biology from the University of Illinois in Chicago. I got it. I got my bachelor of science degree in biology. Right now, I have applied for a master's for research in neurobiology. But once I get my master's degree—and I am going to get it—I am still undocumented. In the eyes of the Government, I am supposed to leave.

I ask my colleagues, is America a better place if Oscar leaves? Is this country better that a person of that talent would leave us at this point? He came here as a child. His parents brought him here. They didn't ask for him to vote on where to live; they brought him. This is the only land he has ever known. He defied the odds—not only graduated from high school, but he has a bachelor's degree and is going for an advanced degree. Wouldn't we be a better country with Oscar Ramirez as a citizen doing neurobiological research on Parkinson's disease and Alzheimer's? Wouldn't we be a better place?

Standing next to him was a young woman about to get her bachelor's degree in the city of Chicago in computer science and math who said: All I want to do is teach. I want to teach in high school. I hope that some kids will be as excited about math as I am.

Can we give up on a person like that? Are we ready to say we don't need them in America—thank you for dropping by, but you can go back to wherever you came from? I don't think so. I think what they bring to America is exactly what we need—values that we cherish, values that distinguish us from many other countries. Why is this such a great nation? Because it is a nation of immigrants and a nation of immigrant spirit, the spirit of those who were willing to get up and take a risk where others were not.

When my mother's family left the tiny village of Jurbarkas in Lithuania, I am sure there were villagers around them shaking their heads, saying: What are they thinking? They are leaving their home, the little plot of land they are tending to grow vegetables. They are leaving the church where they were baptized, their language, their culture, to go to a place where they can't even speak the language. That Kutkin family must be crazy.

It was a crazy family like my grandparents and many like them who have made this great Nation. They brought here risk taking. They brought here family values. They were going to stick together through thick or thin, and they did it. Because of them, because of their courage and the courage of millions like them, we are a different nation. Where other nations are torn apart by divisions, our diversity gives us strength.

That is what this bill tries to capitalize on. That is what this bill tries to build on. It says: Let us take the strength of that immigrant spirit and build a stronger America for tomorrow. Create obstacles in the path, create requirements, give people a chance to earn their way to citizenship. It is a hard, long path, but an important one.

The Senate bill we passed takes this comprehensive approach. It is tough. It is fair. We improve border security, deploy new technology, increase our manpower, crack down on employers that are hiring millions of undocumented workers. We do need tougher

enforcement. We believe that. But in the Judiciary Committee bill, we acknowledge something that Senator FRIST, the Republican majority leader of the Senate, and Chairman JAMES SENSENBRENNER of Wisconsin did not acknowledge—a strategy that focuses only on enforcement is doomed to fail. In the last decade, we tripled the Border Patrol agents in America. We have spent eight times as many hours patrolling the border. During that same time, the number of undocumented immigrants has doubled. Enforcement alone is not enough. We need a realistic and comprehensive approach.

As the Department of Homeland Security acknowledges, mass deportation, which we might hear on some of the cable talk shows, isn't going to work and will cost us billions of dollars if we try. Amnesty is not an option, simply waving our hand and saying to everyone who is here: You are now legal citizens, enjoy America. That isn't the right thing to do, either.

What we try to do is find a reasonable middle ground. If we are serious about reform, we need to offer the chance for immigrants who work hard, play by the rules, pay their taxes, learn English, a chance to become legal in America.

Incidentally, what Senator KYL said earlier about those who should be disqualified, I can't argue with him. When it comes to criminal records, let's be honest, if you want to be a citizen and you want to commit crimes here, we don't want you. Can I be any clearer? If you want to commit a violent crime, if you want to endanger the life of another person with a sawed-off shotgun or commit crime of moral turpitude, you can leave right now. We don't need you, and we don't want you. We make that clear in the bill. It is already there. If you want to make it all the way to citizenship, you can't have a criminal record, period.

You have to have been employed since January 2004. Aliens who enter after that date or who have not worked continuously since then would not qualify. You have to remain continuously employed going forward. You have to pay about $2,000 in fines and fees, pass a security background check, a medical exam, learn English, learn about our history and government, and pay all back taxes. And then, if you meet all of those requirements, you go to the back of the line so that people who are trying to move forward in this convoluted, bureaucratic legal process will still be in the front of the line before you.

It is clear that is not amnesty. That is a process, a long, arduous process. It is an 11-year pathway to citizenship.

We have an important bill before us, a bipartisan bill. We have a singular opportunity to make history this week in the Senate. If we press forward with a bipartisan spirit, the same spirit that guided the Senate Judiciary Committee, we can achieve this. Having achieved it, we will be able to say that we tackled one of the biggest problems facing America today and dealt with it in a responsible fashion.

I will not renew my unanimous consent request because I know the Senator from Pennsylvania would object. There is no point wasting our time in that regard. I thank him for his leadership. I know he is trying to find some balance to build a bridge over the troubled waters of the Senate. But at this moment in time, we are prepared to move on the four amendments we have agreed to and three others. We would like to do that, I say to the Senator from Georgia. The amendment which we are prepared to accept may not be the one you want today, but perhaps we could get to your amendment at a later time. I hope we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are at an impasse. The rules of the Senate have been used to block meaningful consideration of the pending legislation. What we have before us is the committee bill which was voted out 12 to 6. I believe it is a good bill. It is a very good bill. But under our rules, it is subject to being amended. The Senators who wish to offer amendments are being stymied by the Democrats who are imposing technical rules—led by Senator REID, the minority leader. That is the brutal fact of life.

We worked hard to try to find some amendments where we could go forward and have votes. We came up with a list, but none were meaningful. None would advance the core considerations of this legislation.

The rules of the Senate are very complex. If an amendment is not offered prior to cloture—and cloture is the expression to cut off debate—the amendment may not be voted upon, cannot be offered after cloture if it hadn't been offered before cloture. If anybody is watching on C–SPAN 2, which I doubt—it is just too dull; perhaps not by comparison with what else is available on cable or over the air—the reason is that Senators do not want to make tough votes. Today, it is the Democrats who don't want to make tough votes. But another——

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. I will as soon as I finish.

Today, it is the Democrats who don't want to make tough votes, but there have been days when it was the Republicans who didn't want to make tough votes.

Senator REID said that they were experts on being cut off from offering amendments because they have tried to offer amendments and couldn't. And he mentioned the minimum wage and stem cells, among other items. But there is a significant difference on what is happening today and yesterday during the pendency of this bill, and that is that the amendments to be offered relate to the bill, are germane to the bill. Senator KYL wants to offer amendments that deal with the text of the bill. When Senator REID was talking about stem cells, he was talking about hypothetically, or maybe he did try to offer a stem cell amendment—I don't know—or tried to offer a minimum wage amendment, but he tried to offer it on a bill which was not germane.

It makes sense to say we are not going to vote on stem cells on the highway bill, illustratively. And although Senator REID wants to vote on stem cells, he hasn't pushed that issue as hard as I have. I have been working on the stem cell issue since it burst upon the scene in November of 1998. The subcommittee which I chair on Labor, Health and Human Services, and Education has had 16 hearings on it. I am the coauthor of the Specter-Harkin bill which has passed the House as the Castle bill. I really want to bring that up, but I can see not bringing it up on an unrelated bill. We are working now on a schedule. The majority leader has committed to finding a time to vote on stem cells in the immediate future.

The point is that when the Democrats tried to offer amendments, they were to bills where they were not germane. I think that is the situation. I do not have all of the amendments in my hand, but be that as it may, there is no doubt that the amendments which Senator KYL and others want to offer relate directly to this bill. Although I would like to pass this committee bill, we are not going to get a fair shot at it because we are not going to get cloture. After cloture is voted down tomorrow, there is going to be a mass exodus for the airports and the trains. People will be going on the Easter recess, and this very important piece of legislation is going to die.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. OK.

Mr. DURBIN. I would like to ask the chairman of the Senate Judiciary Committee if he recalls a few weeks ago on the reauthorization of the PATRIOT Act when Senator FEINGOLD of Wisconsin offered amendments which were germane postcloture but was not given an opportunity to call those amendments because the Republican majority leader, Senator FRIST, filled the tree? There was no question that they were germane amendments. Senator FEINGOLD rightfully took to the floor and held us in session for days because the Republican majority would not allow votes on germane amendments on the bill that came out of our committee.

Mr. SPECTER. Mr. President, the thought that comes to my mind is, were they subject to being offered postcloture, had they been offered precloture? Don't they have to be offered precloture? The Parliamentarian is shaking her head in the negative. Repeat the question, and I will try to answer that.

Mr. DURBIN. It is my understanding that you can offer germane amendments postcloture, but the question is

whether you can get into a queue where the amendment will be called. If there is a pending germane amendment filed precloture, it may take precedence in terms of being called, and you may not have an opportunity. I think you have a right under our rules to offer germane amendments postcloture. Whether you will have a chance to call those for a vote depends on the process on the floor.

Mr. SPECTER. Well, as we have seen in so many situations, and where I have been willing to concede error on both sides of the aisle, I am not going to seek to defend preventing votes on relevant, germane amendments, whether they are offered by Senator FEINGOLD or Senator KYL, or anybody else. That is just not the way the Senate ought to be run. I am glad to note that the Senator from Illinois didn't hear my answer. He was talking, which he has a right to do.

Mr. DURBIN. I apologize to the Senator, who is very patient. I will listen to his remarks.

Mr. SPECTER. It is not worth repeating. It is my hope that sanity may yet return to this Chamber. If it existed, it has certainly departed. We have, in all seriousness, a bill before us that is enormously important.

Senator DURBIN spoke at some length a few moments ago, and I agree with most of what he said. We have a tremendous problem in this country with undocumented aliens. We need to get a handle on what is going on. We need to not have a fugitive class in America that is being exploited by employers. We need to control our borders. We have a serious problem with terrorism. We have a serious question whether the people coming into this country are taking American jobs or depressing American wages. We are simply not dealing with it.

To have the Senate floor empty, and we are going to have a quorum call most of the time unless people come over and talk about ideas, which are fine but are not advancing the progress of this bill. I think it is important that our constituents know we are at an impasse because of technical reasons advanced by the Democrats. I do not say that in a partisan sense. I have voted for many Democratic proposals and for many of President Clinton's judges and across the line on many occasions when I thought the ideas merited it, not as a matter of party loyalty.

The Democrats are stonewalling this bill and no one is even on the floor to defend them, so I will not attack them anymore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I want to pose a question to the distinguished minority whip. Last Thursday, I offered amendment No. 3215, which is second in line after the Kyl amendment. I have listened intently to the distinguished Senators from Illinois with regard to the objections they have expressed to the Kyl amendment. I have not heard them say what their objection is to amendment No. 3215.

I ask the Senator from Illinois this question: Amendment No. 3215 is a simple amendment, which says that any provisions of this act which grant legal status to someone who is here illegally do not take effect until such time as the Secretary of Homeland Security has certified to the President and the Congress that our borders are reasonably secure.

Now, I would like to hear what objection someone would have to the United States of America living up to its responsibility of securing our borders?

Mr. DURBIN. Mr. President, I say to the Senator from Georgia, I think it would be an interesting debate. We may reach that debate as to what is reasonably secure. There are some, as I understand it, 300 million people who cross our border with Mexico every year in legal status, for commercial purposes and otherwise, and whether we are secure under the Senator's amendment, I would have to listen to his arguments on who makes the certification and what are the standards for that.

If we had a situation where the fate of millions of people hinged on a subjective decision about reasonable security, I think that would raise some questions about whether we are moving forward and whether people would say: I can step out of the shadows now and I think at this point I am prepared to tell you who I am, where I live, where I work, and here are my records. If there is this uncertainty, at any given time you could stop the process.

I say to the Senator from Georgia, it would be an interesting debate and I am anxious to hear his side of the argument.

His is 1 of 100 amendments that have been filed. One of his other amendments we are prepared to take up immediately. I don't think that is the same one. We are prepared to take that up because we think it would move the bill forward in a constructive, bipartisan way.

I would like to hear the Senator's argument before making a final decision.

Mr. ISAKSON. Reclaiming my time, my response to the Senator would be that I am not an attorney, but I spent 33 years in the real estate business. I saw the term ''reasonable attorney's fees'' on more documents than the law would allow. I never met an attorney who could not describe what reasonable attorney's fees meant. I think we can find a lot of people in the Senate who understand that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I ask unanimous consent to speak as in morning business for a few moments.

The PRESIDING OFFICE. Without objection, it is so ordered.

NEGRO LEAGUES BASEBALL MUSEUM

Mr. TALENT. Mr. President, I would like to take a few minutes to talk about last night's passage of S. Con. Res. 60, a resolution that designates the Negro Leagues Baseball Museum in Kansas City, MO, as America's National Negro Leagues Baseball Museum. I can't think of a more appropriate time of the year to have passed this landmark legislation than this week—opening week of the 2006 baseball season. The passage of this historic resolution will allow an already fantastic museum to grow and become even better.

That would be reason enough to pass a resolution here were the museum on any other subject. But on this subject, which is so significant to the history of America, it made the resolution, I think, even more important. I am grateful to the Senate for passing it last night.

Many of baseball's most noted stars of the past century got their beginnings in the Negro Leagues. Greats such as Hank Aaron, Ernie Banks, Roy Campanella, Larry Doby, Willie Mays, Satchel Paige, and of course, Jackie Robinson eventually brought their fast-paced and highly competitive brand of Negro Leagues baseball to the Major Leagues. In fact, much of the fast-paced style of baseball today is owing to the influence of the Negro League's brand of ball.

Unfortunately, before the color bar was broken, many skilled African-American ballplayers were never allowed to share the same field as their White counterparts. Instead, such players played from the 1920s to the 1960s in over 30 communities located throughout the United States on teams in one of six Negro Baseball Leagues, including teams in Kansas City and St. Louis in my home State of Missouri.

The history of these leagues is an interesting one. In the late 1800s and early 1900s, African Americans began to play baseball on military teams, college teams, and company teams. The teams in those days were integrated. Many African Americans eventually found their way onto minor league teams with White players during this time. However, racism and Jim Crow laws drove African-American players from their integrated teams in the early 1900s, forcing them to form their own ''barnstorming'' teams which traveled around the country playing anyone willing to challenge them.

In 1920, the Negro National League, which was the first of the Negro Baseball Leagues, was formed under the guidance of Andrew ''Rube'' Foster—a former player, manager, and owner of the Chicago American Giants—at a meeting held at the Paseo YMCA in Kansas City, MO. Soon after the Negro National League was formed, rival leagues formed in Eastern and Southern States and brought the thrills and the innovative play of the Negro Leagues to major urban centers and

rural countrysides throughout the United States, Canada, and Latin America.

For more than 40 years, the Negro Leagues maintained the highest level of professional skill and became centerpieces for economic development in their communities. The Negro Leagues constituted the third largest African American owned and run business in the country in those days. They brought jobs and economic activity to many of the cities around the United States and played in front of crowds of ten, twenty, thirty, forty, and even fifty thousand people. These crowds were integrated. White and Black fans came to watch the Negro Leagues, and they sat together.

In 1945, Branch Rickey of Major League Baseball's Brooklyn Dodgers recruited Jackie Robinson from the Kansas City Monarchs, which made Jackie the first African American in the modern era to play on a Major League roster. That historic event led to the integration of the Major Leagues and ironically prompted the decline of the Negro Leagues because, of course, Major League teams began to recruit and sign the best African-American ballplayers.

If you stop and think about it, the integration of baseball was the first of the major events in the civil rights movement in this country—well, not the first, because that movement, of course, had begun early in the last century. But it was the first significant widely known event. Baseball was even more than it is today America's game. The effect of this on the national consciousness, the progress that made toward equality and justice for all people, cannot be underestimated. That event occurred because of the Negro Baseball Leagues. Without those leagues, we would not have the pool of ability and excellent baseball players from which Branch Rickey was able to draw when he came to an agreement with Jackie Robinson. Ironically, though, that event, which led to the integration of the Major Leagues, prompted the decline of the Negro Leagues, because Major League teams began to recruit and sign the best African-American players.

The last Negro Leagues teams folded in the late 1960s. Much of the storied history of these leagues was packed away and forgotten until 1990 when the Negro Leagues Baseball Museum was founded in Kansas City, MO, to honor the players, coaches and owners who competed in Negro Leagues Baseball. This museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the participants of the Negro Leagues from the 1920s through the 1960s.

It is not a hall of fame, Mr. President. We don't want it to be a hall of fame. The Negro Leagues' baseball players belong in the Major League Hall of Fame. They were segregated long enough. It is a museum that exists in order to educate and enlighten people, and to allow them to enjoy the experience of the Negro leagues in the United States.

Today the museum educates a diverse audience through its comprehensive collection of historical materials, important artifacts, and oral histories of the participants of the leagues. The museum uses onsite visits, traveling exhibits, classroom curriculum, distance learning, and other initiatives to teach the Nation about the honor, the skill, the courage, the sacrifice, the humanity, and the triumph of the Negro Leagues and their players.

This resolution designates the Negro Leagues Baseball Museum in Kansas City as America's National Negro Leagues Baseball Museum. This designation will assist the museum in its efforts to continue the collection, preservation, and interpretation of the historical memorabilia associated with the Negro Leagues. This effort is a must if we hope to enhance our knowledge and understanding of the experience of African Americans and the African-American ballplayer during the trials and tribulations of legal segregations.

The full story of the Negro Leagues should be preserved for generations to come and the passage of this legislation gives the museum another tool to do just that.

I highly recommend a visit to the Negro Leagues Baseball Museum for anybody who is in Kansas City. Whether you are a baseball fan or not, you will be moved by what you see and the stories you are told at the museum. You will be encouraged and inspired in every way by seeing how these players confronted the injustices of their times, and with great spirit and energy overcame all obstacles placed in front of them.

This museum is a first-class operation of 10,000 square feet in the historic 18th and Vine neighborhood in Kansas City. It entertains 60,000 visitors a year. There is a number of key features to the museum, but I think the passage through which you can walk and see a timeline of the Negro Leagues' development, and then next to it a timeline of important events in American history and the civil rights movement, is very enlightening and very moving. You will learn about these leagues and the players as people, and through that and through their experiences, you will learn about the times. These were not downtrodden men who played in this game, nor were the owners or the fans.

They were joyous. They played a game they loved, and they played it extremely well. Yet in the context of everything they did was the legal and social situation in the United States they were battling, over which they eventually triumphed.

Those who visit will be encouraged and inspired by seeing how those players confronted the injustices and other difficulties of their time with great spirit and energy and overcame the obstacles in front of them.

I congratulate everybody at the museum who continues to work so very hard to make sure the story of the Negro Leagues is a piece of history that is preserved for future generations. The passage of this legislation is an important way to honor the museum, its employees, all its volunteers and supporters for their years of tireless advocacy on behalf of the baseball legends of the Negro Leagues.

I especially thank and congratulate Don Motley, Bob Kendrick, Annie Pressley, and Buck O'Neil of the Negro Leagues Baseball Museum for their dedication and assistance in passing this resolution.

I also thank Senator DURBIN for cosponsoring this resolution with me and others who cosponsored it as well.

I am not going to take up much more time of the Senate. I know we are taking a little break from the important immigration debate, but I can't pass up the opportunity to put in a good word about my friend Buck O'Neil and the tremendous work he continues to do for the Negro Leagues Baseball Museum. Buck is a true American treasure whose illustrious baseball career spans seven decades. It has made him one of the game's foremost authorities and certainly one of its greatest ambassadors.

I am not going to go through all of Buck's statistics as a player, as a manager in the Negro Leagues, or as the first African American who became a coach in the Major Leagues. He did so with the Cubs. In that capacity, he discovered superstars such as Lou Brock, for which I am very grateful. If he had been in control of the Cubs' front office, they would not have traded Lou Brock to the Cardinals for Ernie Broglio in 1964, and they might have won a couple pennants themselves. So I am grateful Buck was not the Cubs' general manager at the time. I don't think he would have made that mistake.

In 1988, after more than 30 years with the Cubs, he returned home to Kansas City to scout for the Kansas City Royals.

Today Buck serves as chairman of the Negro Leagues Baseball Museum he helped to found. The work he has done after he retired from the game may be even more significant to the history of baseball than his exploits as a player or manager. Nobody has done more to build this museum and to call the rest of us to remember the significance of Negro Leagues Baseball than Buck O'Neil.

He has reminded us that the leagues are significant in so many ways on so many different levels. They represent a triumph of the human spirit, tremendous sportsmanship, high quality of play, and were of vital importance to the African-American community of the time, and they led directly to the integration of the Major Leagues.

The work of Buck O'Neil and the museum led the Hall of Fame to hold special elections earlier this year to elect a class of Negro Leagues and pre-Negro Leagues ballplayers into the 2006 Hall of Fame induction class. On February 27, 2006, the Hall of Fame in Cooperstown announced that 17 former Negro Leagues and pre-Negro Leagues players and executives would be inducted into the Hall of Fame in July 2006. That was largely because of the efforts pushed by Buck and the Negro Leagues Baseball Museum and concurred in by Major League Baseball. It was a bittersweet day for me and many of us in Missouri because the one name missing from that list of 17 players and executives was Buck O'Neil.

I certainly think there is nobody who meets the criteria for induction into the Hall of Fame more than Buck. If you look at his statistics on the field as a player, his years as a scout, his years as a manager and a coach, even more than that, his years as an ambassador for baseball, a happy warrior for the Negro Leagues and the Negro Leagues Baseball Museum, it more than qualifies him for admission into the Hall of Fame. I hope we can find some way to correct this oversight quickly.

In closing, I thank the Senate for its patience. I thank my friend and colleague from New Mexico, Senator DOMENICI, for his assistance and support in moving this legislation swiftly through the Energy Committee.

I thank the colleagues who supported the legislation and allowed it to pass by unanimous consent last night. The story of the Negro Leagues is a story of true American heroes who contributed to this Nation on and off the field and confronted life with courage, with sacrifice, and eventually with triumph in the face of injustice. I hope the Members of the Senate will take an opportunity when they are in the area to learn more about these heroes by visiting what I hope and believe will soon become known as America's National Negro Leagues Baseball Museum in Kansas City, MO.

I thank the Senate, and I yield the floor.

Mr. SESSIONS. Madam President, if I may ask a question of the Senator.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Senator TALENT for his leadership on this important issue. As a person who lives in Mobile, AL, I am proud of Satchel Paige. I assume he will be in the museum.

Mr. TALENT. Yes; he has a big place in the museum.

Mr. SESSIONS. Satchel Paige was denied the right to fully participate in American baseball until the very end of his career. That was a tragedy. It was really a tragedy. It is something our Nation cannot take pride in and should feel great sadness over. A number of other Negro Leagues players came from Mobile, which is a great bastion of baseball excellence, including Willie McCovey and Hank Aaron, among others, who developed out of that history of excellent baseball.

I thank the Senator from Missouri for his leadership. I think it will be an important addition to our national heritage to have this museum.

Mr. TALENT. I thank the Senator for his comments.

Mrs. BOXER. Madam President, today I wish to pay homage to Buck O'Neil a splendid athlete, a peerless ambassador of baseball, and a wonderful man who has become an American icon beloved by millions.

Many people first got to know Buck O'Neil as a major contributor to ''Baseball,'' Ken Burns's landmark documentary on our national pastime. While narrating the history of the Negro Leagues and the breaking of the color line in Major League Baseball, Buck passed along not only his prodigious knowledge of baseball and the society it helped to change forever but also his indomitable spirit, joy of living, and love of the game.

Before becoming a television star, Buck O'Neil was a baseball star in the Negro Leagues. As a first baseman and manager between 1937 and 1955, he played on nine championship teams and three East-West All Star teams, won a batting title, starred in two Negro Leagues World Series, and managed five pennant winners and five All Star teams. As manager of the Kansas City Monarchs, he mentored more than three dozen players who eventually made it to the Major Leagues.

In 1962, Buck O'Neil became the first African-American coach in the Major Leagues, where he helped the Chicago Cubs' Ernie Banks, Billy Williams, and Lou Brock develop the skills that led them to the Baseball Hall of Fame.

Today, at age 94, Buck is still bubbling over with enthusiasm for baseball, life, and his fellow human beings. He continues to serve on the Veterans' Committee at the Hall of Fame and as chairman of the Negro Leagues Baseball Museum in Kansas City.

On May 6, 2006, the San Diego Padres will honor Buck O'Neil as part of their Third Annual Salute to the Negro Leagues. I am honored that this statement will be a part of that salute, and I send my great admiration and appreciation along to Buck O'Neil and all of the other great players of the Negro Leagues.

Mr. President, I know that you and all of our colleagues in the U.S. Senate will join me in sending our best wishes to Buck O'Neil for this very special day and for many more years of great service to baseball and the Nation.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Madam President, I thank my colleague from Missouri as well for his great words on behalf of the contribution to baseball that has been made by some of our country's finest sportsmen.

I thank my colleague from Alabama, Senator SESSIONS, for his good work in this Chamber. I also note he and I were participants in a codel that just went into Iraq and Afghanistan. The issues we face around the world on national security are so important that it is going to require a coming together of our country to make sure we are working toward the creation of a better, safer, and more secure world.

I want to speak briefly to the bill that is currently before this Chamber, and that is the immigration reform bill in its comprehensive form that came out of the Senate Judiciary Committee. I believe from a national security and homeland security perspective this Chamber is working on one of the most very important issues facing our Nation today, and that is the issue of making sure we take our broken borders and the lawlessness coming across the borders and create a system that is comprehensive in nature to address that lawlessness.

I believe the legislation which came out of the Judiciary Committee does that, and it does so by making sure, first and foremost, that we are strengthening our borders, and secondly, making sure that within the interior, we are creating the kind of immigration law enforcement program that is going to be effective; that looking at the immigration laws and simply ignoring them is a chapter which will go away if we are able to get our hands around passage of this bill. And finally, dealing with the reality of the 11 million workers in America—those workers who toil in our fields, those workers who work in our restaurants, those workers who work in our factories, and all of those who make the kind of lifestyle we have in America possible—we need to address those issues with respect to what some have said is the big elephant in that room, and we need to do it in a thoughtful and humane manner that upholds the rule of law of our Nation.

I want to speak briefly about the importance of border security and what this legislation does.

In the days after 9/11, when we have hundreds of thousands of people coming into this country, without any sense of where they are coming from, whether they come here to seek a good job and to be a part of the American dream, or whether they come as terrorists across the border, it makes the statement that we need to make sure we are doing everything within our power to strengthen those borders. This legislation out of the Judiciary Committee does exactly that. It does so by adding 12,000 new officers to make sure our borders are being patrolled. We go from a staff level of about 12,000 Border Patrol officers up to an additional 12,000 and that will get us to almost 25,000 people who will be deployed along our borders to make sure we can enforce the law.

It creates additional border fences in those places where we know now there are significant streams of illegal and undocumented workers coming back

and forth across the borders. So it creates those additional fences.

It creates virtual fences by deploying the kind of technology that allows us to detect movement across our border.

It also makes sure we create the avenues for checkpoints and ports of entry so we don't have the massive backup on the borders on either side.

I believe the border security aspects of this legislation are where Republicans and Democrats should come together in the name of national and homeland security, and we should be supportive of this legislation for that very purpose.

Second, this legislation is also about enforcing our laws. It is about making sure we have an immigration system where everyone in our country is standing up for enforcing the rule of law.

We will do that by providing an additional 5,000 new investigators to make sure those laws are being enforced. Today there are many violations of our immigration laws that are taking place across every one of our States in America, and yet our immigration laws simply are on the books. They are not being enforced. A law on the books that is not being enforced is almost like not having a law at all. So what we will do is hire 5,000 additional investigators and create the law enforcement capacity to make sure those laws are being enforced in the interior.

In addition, when apprehension occurs of someone who is here illegally, it is difficult to find a place to house these individuals until they are deported. This legislation calls for an additional 20 detention facilities. Those 20 detention facilities will give us the capacity to process those who are breaking the laws of immigration.

The legislation also addresses a very important issue that is critical to State and local governments. State and local governments have been dealing with the influx of undocumented workers and illegal aliens in our country for a very long time. Yet there has been no system providing them compensation for what they are doing to try to enforce the laws at the State and local level, essentially on behalf of the Federal Government because this is a Federal issue, after all. What this legislation will do is provide reimbursement for the States for the detention and imprisonment of criminal aliens.

The legislation also requires a faster deportation process. I go back to the old adage of justice delayed is sometimes justice denied. We have people who are sometimes waiting in the system for months and months and years and years without coming to any kind of resolution. This legislation will require a faster deportation process.

There are significant provisions in this legislation that will make additional criminal activity for gang members, money laundering, and for human traffickers. We know human trafficking across the borders creates tremendous hardship on people. It also demeans people and results in the deaths of many people. We know there is gang activity along the border that deals with drug trafficking and a whole host of illegal activity. We need to make sure those involved in that kind of criminal activity are brought to justice.

Finally, in terms of enforcing our immigration laws, it is important we address what has become an industry in this country in terms of production of fraudulent documents and identification cards used in this country. President Bush's wish to create a tamperproof card that will go along with this guest worker program is a step in the right direction because it will get us to the point where we will have a tamperproof card and we can avoid the identity theft and identity fraud we see going on in this arena.

Finally, I want to address a third point in what I consider to be this law and order bill, and that is our penalties that come along with this legislation for the 11 million undocumented workers who are in this country. There is a monetary penalty that is applied. In addition, unlike all Americans, there is a requirement that those who are here and undocumented have to register, and they must register on an annual basis. For all of us who are Americans, there is no requirement of registration. If we don't want to have a Social Security card or if we don't want to have a license or if we don't want to be a part of the Government, our right as an American citizen is not to register. For this group of people, we are going to require them to register with the U.S. Government.

There is a whole host of other things that is required of these 11 million people, including the requirement that they learn English, including the requirement that they pass a criminal background check and that they pass a medical exam, and the list of requirements goes on and on and on. I believe the legislation that was produced by the Judiciary Committee is, in fact, a law and order bill. It addresses a very fundamental issue that is of paramount importance to all of us in this Nation and that is the security of our Nation and the security of our homeland.

Finally, I conclude by making a statement about the humanitarian issues that ought to concern all of us with respect to our broken borders. I heard my good friend Senator JOHN MCCAIN at the outset of the consideration of this legislation by the Senate a few days ago, talking about what he had seen in Arizona and how the Arizona Republic had reported that, I believe it was in 2004, 300 people had been found in the desert. Later he discussed how in the following year there were some 406 or 407 people who had been found dead in the desert, people who had died of thirst and hunger, rape and pillage and murder, out in the desert. Perhaps it is only in America when we see those kinds of conditions that we as an American society say, That ought to be unacceptable to us as a country. How can we have 300, 400, 500 people a year die in the deserts of Arizona? That is the kind of inhumanity that ought to cause all of us as leaders in our country and all of us in our society to say, We must do something about this.

I was moved by Senator MCCAIN's description of some of the people who were dying in the desert, including the story of the 2-year-old girl who had died in the desert and the 13 year old who had died clutching her rosary in that desert in Arizona.

I believe America can, in fact, come to grips with this problem. I believe we have an opportunity here in the Senate to deal with this issue. I am very hopeful my colleagues, both my Democratic colleagues and Republican colleagues, who are working on this issue will not let this historic opportunity we have pass us by. It is this time, it is this day, it is this week where I believe we as a nation can come together and develop comprehensive immigration reform that is long term and that will be long lasting.

Madam President, I yield the floor.

Mr. SESSIONS. Madam President, I thank Senator SALAZAR. We did indeed have a most important trip to Iraq, Afghanistan, Pakistan, and Turkey, and were able to delve into some of those matters that are so important to our national security and check on the quality of care our troops are receiving. I enjoyed that very much. He is a fine addition to our Senate. I think we have a lot of agreements on this legislation, and some disagreements. I appreciate the opportunity we have to discuss these issues.

This debate is often centered around whether we are dealing with amnesty here, and I believe this legislation, by all definitions, is amnesty. But first I want to ask the question: Why is this so? Why is it that people care about whether we use a word such as ''amnesty'' to describe what this legislation that is before us today is? Why is that important?

It is important because most of us, when we were out campaigning for election, promised not to do amnesty again. Many people in this body who voted for the 1986 amnesty bill agreed it was amnesty and said they wouldn't do it again. The President of the United States, President Bush, despite all of his intentions to try to enhance legal immigration in our country, has always said he did not favor amnesty. So that is the deal. I think the American people have a right to expect that those they elect to office will honor what a fair interpretation of the meaning of that word is. If you promise not to support amnesty, then you shouldn't support a bill that is amnesty.

You can redefine words to make them mean most anything you want. My definition of an activist judge is a person who redefines the meaning of words to have them say whatever he or she would like them to say so they can

accomplish a result they consider to be desirable. But words do have meaning. We can have some understanding of what these issues are about, and I want to discuss it in some detail.

Senator KENNEDY said:

Many have called this adjusted status amnesty. I reject it. Amnesty means forgiveness, not pardon.

Well, I don't know exactly what that means. He said: This bill is not amnesty.

He goes on to say: ''Amnesty is not a pardon.''

Senator DURBIN, the assistant Democratic leader, said: ''Amnesty basically says, We forgive you.''

He goes on to say:

Amnesty, very simply, is if you have been charged and found guilty of a crime, amnesty says, we forgive you. We are not going to hold you responsible for your crime.

But only if you have been charged and found guilty, apparently.

Senator FEINSTEIN says: ''Amnesty is instant forgiveness, with no conditions. And there are conditions,'' she says, ''on this'' bill.

Senator SPECTER said:

Amnesty is a code word to try to smear good-faith legislation to deal with this problem. It is not amnesty because the lawbreakers have not been unconditionally forgiven of their transgressions.

And Senator MCCAIN said also:

There is no requirements. There must be no requirement whatsoever to call this bill amnesty.

He said:

Amnesty is simply declaring people who entered this country illegally citizens of the United States and imposing no other requirements on them. That is not what we do, Mr. President.

So in an effort to redefine this situation to mean what they want it to mean, they have said unless there is no condition whatsoever, you can't have amnesty. But people agreed that 1986 was amnesty and placed quite a number of conditions—some more significant than the ones in this bill—on those who were given amnesty.

Those of us who are familiar with the law world—I served as a lawyer the best I could for a number of years, and I know Madam President is a lawyer—we know what Black's Law Dictionary is. It is a dictionary lawyers use to define words in their legal context. Black's Law Dictionary, as part of its definition of the word ''amnesty,'' says this:

The 1986 Immigration Reform and Control Act provided amnesty for many undocumented aliens already present in the country.

Black's Law Dictionary, the final definition of legal words, says the 1986 Immigration Reform and Control Act provided amnesty for people here. It had conditions on it. It had some conditions on it; it just didn't have many conditions on it. So everybody recognizes it as basically amnesty, and that is why they called it that.

Again, I am not trying to use a code word here. What I am saying is there is a systematic effort in this body to redefine the definition of amnesty so they can tell their voters back home that although they opposed amnesty, this bill is not amnesty, and that is why they voted for it. That, unfortunately, I would have to say, is where we are.

What does the Democratic leader in the Senate, Senator HARRY REID, say about what amnesty is? Does he say that 1986 was amnesty and it had quite a few restrictions on the movement to full benefits of citizenship in the United States? This is what the Democratic leader says. This is what he said on September 20, 1993, when making a speech on the floor in the Senate; it is part of the CONGRESSIONAL RECORD. He said:

In 1986 we granted amnesty, and I voted against that provision in law. We granted amnesty to 3.2 million illegal immigrants. After being in this country for 10 years, the average amnesty recipient had a sixth-grade education, earned less than $6 an hour, and presently qualifies for the earned-income tax credit.

The earned income tax credit is if you don't make enough money to pay income taxes and don't pay income taxes, not only do you not have to pay them but they give you money back. The average benefit for a person who qualifies for the earned-income tax credit, I would say parenthetically if anybody is interested, is $2,400 per year.

So that is what Senator REID had to say about it in 1993, that the 1986 law was amnesty. I don't think anybody disputes that 1986 was amnesty.

He made another speech. We have a chart and I want to refer to it because I want to drive this point home. On March 10 of 1994, the Democratic leader in this body today, Senator REID, said this:

In 1986, Congress gave amnesty and legal status to 3.1 million individuals not lawfully residing here. . . . Even after Congress has passed massive legalization programs, millions of individuals do not lawfully reside in the United States today.

That was true in 1994, a mere 8 years after the bill passed.

He continues:

And many more continue to cheat the rules and continue to enter unlawfully.

That is a true statement, I submit, this very day.

So did the Democratic leader have any doubt that 1986 was an amnesty law? I don't think so. In fact, everybody knows it was. That is what we defined it as.

I want to go over some of the provisions in that act and compare it to the provisions in today's act. Let's talk honestly here. There is no mystery here. I would submit, as several of the proponents of this legislation have tried to do, that you only have amnesty if you put no condition whatsoever on the person who is here illegally—and they put some conditions on those persons. Therefore, they say, Oh, no, I know we promised not to pass amnesty, but this isn't amnesty because there are conditions on the people who are here illegally. So there is no way to do this but go over it truthfully and analyze it and see what the facts are.

This was passed in 1986. What did it require, this amnesty of 1986? It required continuous unlawful residence in the United States before January 1, 1982. That is 4 years before the passage of the 1986 act—more than 4 years, because I am sure it didn't pass January 1. So for more than 4 years you had to be here unlawfully before this act applied to you. That is a restriction, isn't it, on amnesty, under the definition of those who want to say the current act is not amnesty?

But what does the 2006 act say? Physically present and employed in the United States before January 7, 2004—employed in the U.S. since January 7, 2004; continuous employment is not required. So the key date here is that you have to have been in the country before January 7, 2004. So we are requiring under this bill that you have to live in the country illegally for 2 years before you get on this amnesty track.

Under the previous law, they required 4 years. So with regard to 1986, I think it is a tougher standard, I submit, than we have in today's standard. I don't think anybody can dispute that.

Then you have a fee. They say they are paying a fine, a big fine. Well, in the 1986 act, they say there will be a $185 fee for the principal applicant, $50 for each child, a $420 family cap. Now we have a $1,000 fine, but it does not apply to anybody under 21 years of age; they don't pay anything. They paid $50 per child back in 1986. They don't pay anything. I submit that is about a wash. There is a little difference in money. You had an inflation rate; what difference is $1,000 to $420?

Both of them say you should meet admissibility criteria. That means, I suppose, that you are not a felon. That is one of the main criteria. Both of them said that. Surely we are not going to be taking in felons into the country. In fact, regarding this bill to which Senator KYL and CORNYN have offered an amendment—which apparently is being blocked by Democratic Leader REID from ever getting a vote—they are contending that this criminality requirement is not in this bill. In fact, this bill is weaker than the 1986 bill on the question of that issue of whether you have a criminal record.

In 1986, people were worried about welfare claims and so forth, so they put in language that said you are ineligible for most public benefits for 5 years after your application. They said if you are going to come here to be a citizen of the United States, we do not want you come here to claim welfare. We are going to prohibit you from claiming welfare for at least 5 years. After that, if you get in trouble and you need help, we will help you. But you have to come here not with a desire to gain welfare benefits in our country which exceed the annual income of most people in a

lot of areas of the world. So they put that in. There is no such requirement in our bill. None of that. You can immediately go on welfare, presumably, under the legislation that is before us now.

It does require a background check and fingerprinting, but presumably that was done in 1986, also. But it focuses really on the crimes a person may have committed while they were in the United States. I don't think it has a mechanism under this act to actually go back to the country of origin—whether it is Brazil or Canada or Mexico—to see if they have a criminal history there. That is a weakness in the system. But even if it does, those systems are so immature and nonexistent, it would not be very effective, I suggest.

This requires an 18-month residency period. This one authorizes immediately a 6-year stay in the country. So they said you have to stay 18 months before you make your application for adjustment to permanent resident status. In this bill, you have to stay 6 years, so that is tougher. And you have to work. What are people here for if not to work? Spouses and children don't have to work. People are here to work. It is only a minimal work requirement—not continuous employment—and the proof level is very weak. Regardless, presumably the people who are here want to work, and they ought to be able to prove that they have.

Then you adjust to permanent resident status. That is the green card. In 1986, it required English language and civics. So, in 2006, it is English language and civics, a medical exam, payment of taxes—really? Presumably the people are paying their taxes. And Selective Service registration. So you earn your right to stay in this country by coming into the country illegally and paying your taxes. Thanks a lot.

Then the final step is, in 1986, you paid an $80 fee, $240 for a family. In this bill, it is a $1,000 fee and an application fee.

All I am saying is, if you add those up, I don't think a principled case can be made that 2006, in terms of conditions of entry and amnesty in our country, requires any more stringent requirements on them than in 1986, which Senator REID and everybody else, including ''Black's Law Dictionary,'' have concluded was amnesty.

I say to my colleagues, I would be very dubious of someone who comes up to you and says: Now, Senator, I know you promised in your campaign repeatedly, just as President Bush did, that you would not support amnesty. Don't worry about it. This bill is not amnesty.

I am telling you, the American people are pretty fairminded, and they know perfection is not possible for any of us. But this has not been an issue which has not been discussed. Everybody has talked about the failure of the 1986 bill. As a result, we wanted to do something different. We said we were not going to do that again and we were not going to grant amnesty. I submit this bill does. I wish it were not so.

We can pass legislation that will work. I have repeatedly said we can pass legislation that has good enforcement. We can pass legislation that provides fair treatment to the millions of people who are here. They are not all going to have to be removed from our country and be arrested and prosecuted. That is not so. That is not part of any plan here. But we do need to recognize that we should not give every single benefit to someone who came illegally that we give to those who follow the law and come legally.

Senator LEAHY, who says this bill is not amnesty, even admits this is amnesty in 1986. He says:

> Opponents of a fair comprehensive approach are quick to claim that anything but the most punitive provisions are amnesty.

I am not claiming that.

> They are wrong. We had an amnesty bill. President Reagan signed an amnesty bill in 1986.

I suppose he voted for it.

> This is not an amnesty bill. Our bill is more properly called what it is, a smart, tough bill. The amnesty bill was signed by President Reagan in 1986, and this is different.

But it is not different. Fundamentally, it is the same thing. I submit that is indisputable, and that is why we have a difficulty here. Some of those masters of the universe, sitting up in those glass towers who write editorials, and the Chamber of Commerce, they don't understand what it is like to campaign for office, look your voters in the eye, and discuss directly with them the issues facing our country, and to make commitments to them about what you are going to do once you get elected. They can redefine the meaning of words and think that is just fine. They can just say whatever they want to and then write their editorials. But they don't have to answer to the people they looked in the eye and directly told they would not support amnesty.

In fact, the President, despite his drive to fix immigration and to enhance the flow of immigration into our country, has said a direct path to citizenship—by Scott McClellan, just less than 2 weeks ago. Scott McClellan said a direct path to citizenship and amnesty are two things they don't favor.

Why is this important? After 1986, we ended up with a big problem. Things were not working well in our country. So 6 years after this happened, in 1992, we did an evaluation by an independent commission of that part of the act which dealt with agricultural workers as part of the Immigration Reform and Control Act. That was the name of it, the ''Immigration Reform and Control Act.'' We told American voters—or those in the Congress at that time did—that we are going to control the immigration system.

The congressionally created Commission on Agricultural Workers issued a report to Congress that studied the effects of the 1986 agricultural amnesty on the agricultural industry. They did a study on it because Congress wanted to find out what had really happened with regard to that legislation they had passed. One of the first things the Commission acknowledged was that the number of workers given amnesty under the bill had been severely underestimated. They said this:

> The SAW program legalized many more farm workers than expected. It appears that the number of undocumented workers who had worked in seasonal agricultural services prior to the Immigration Reform and Control Act was generally underestimated.

That is page 1 and 2 of their report, the executive summary.

What else did the Commission find? Did it tell us that the 1986 amnesty of 3 million farm workers solved our agricultural labor problems? Was that the fix that people thought it would be? How did it work?

No, their answer was this:

> Six years after the IRCA was signed into law, the problems within the system of agricultural labor continue to exist. In most areas, an increasing number of newly arriving, unauthorized [illegal] workers compete for available jobs, reducing the number of work hours available to all harvest workers and contributing to lower annual earnings.

That is page 1 of the Report of the Commission of Agricultural Workers, executive summary.

What did the Commission recommend that Congress do? What did they recommend, this independent, bipartisan Commission? Did the Commission recommend that we pass a second legalization program such as the one for agricultural jobs that has been made a part of this bill, offered in committee and is now part of the committee bill that is on the floor? Did they recommend that as a second program to solve the illegal alien agricultural workforce dilemma that was still in existence in 1992, 6 years after the amnesty that was supposed to end all amnesties occurred?

No, the Commission concluded just the opposite. They found:

> The worker-specific and industry-specific legalization programs as contained in the Immigration Reform and Control Act should not be the basis for future immigration policy.

That is page 6 of their report.

What did the Commission suggest that Congress should do? They concluded that the only way to have a structured and stable agricultural market was to increase enforcement of our immigration laws, including employer sanctions, and to reduce illegal immigration.

You talk to anybody on the street, and they will tell you the same thing. You talk to Americans. Overwhelmingly, 80 percent believe we are not enforcing the laws effectively on our borders, and any legalization today without an effective enforcement program in the future will bring us back to an amnesty situation just like we face now, just like they faced in 1986.

The Commission said this:

Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop a better employment eligibility and identification system.

This was 1993, 13 years ago. What has been done about it? Let me repeat that. We need to establish a:

. . . better employment eligibility and identification system, including a fraud-proof work authorization document for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

What a commonsense statement that is. Wasn't that what they promised back in 1986 when we were going to have an amnesty to end all amnesties? Remember that they said this would be a one-time amnesty and we were going to fix the enforcement system and therefore the American people would go with us on that. We are going to do this one-time fix and be generous to those who violated our laws. But trust us, we are going to fix the enforcement system in the future. That is what happened.

We have known that for 14 years—that the key to securing our borders and ending illegal immigration includes more border enforcement, more interior enforcement, and a foolproof worksite verification system. Still, we are not prepared to do that. We are told we should do the same thing we did in 1986 on a much larger scale.

I note that in 1986, we estimated there were 1 million people here who would claim amnesty. That is what people were told when the bill passed. After the bill passed, how many showed up? Three-point-one million people, three times as many.

I don't know where they are saying 12 million people, and that is how many will be given amnesty now, not 1 million. They are saying there will be 11 million and that those would all be given a direct path to citizenship.

Let me point this out. When you adjust to permanent resident status, you get a green card. You are able to stay here permanently, as long as you live here, and after a period of time—5 years—you can make application and you become a citizen. If you haven't been convicted of a felony in the meantime, presumably if you don't pay your taxes and don't get caught for it or don't get convicted of it, you can still do so. Presumably you are drawing welfare or Medicare benefits and those things, you can still make application.

We added up the years. Maybe about 11 years in this process, 10 years, maybe, in the 1986 act, and about 11 years in process. They are saying it takes 11 years for you to become a citizen. That is what it took for anyone who came here in the first amnesty and became a permanent resident. They didn't get to become a citizen the next day; they had to go through the same process as this amnesty requires.

Let me explain why 1986 was a failure and why we can have every expectation that 2006 will be a failure. I am going to be frank with our Members. I don't believe this is an extreme statement. I am prepared to defend it. I believe everyone here who is honest about it will admit it.

In 1986, we passed amnesty, and it became law as soon as that bill was signed. Those people were eligible to be made legal immediately in our country and placed on a track to citizenship that day—the day the bill was signed. What did we have about enforcement? We had a promise that we were going to enforce the law in the future. We are going to fix this border, and we are going to have workplace enforcement.

That was a mere promise. It never happened because I don't think any President wanted it to happen. We went back to the problem when President Carter was here, President Reagan, President Bush, President Clinton, and this President Bush. None of them have demonstrated that they actually intend to enforce our border laws.

I used to be a Federal prosecutor. I used to deal with law enforcement issues. I actually prosecuted one day—I think when I was an assistant U.S. attorney—an immigration case, a stowaway on a ship. A bunch of them stowed away on a ship. I know a little bit about it.

But those actions which are necessary to make the legal system work were never taken by our Chief Executives. We in Congress can study the problem at the border, we can see what those problems are, and then we can pass a law to try to fix it. We can say we want more border patrol, we want more fencing, we want more UAVs, a virtual fence. We can pass those things, but unless the executive branch really wants it to succeed, then—even then, we may not get the thing to work.

The truth is, they should be coming to us. President Bush comes to us and says what he needs to win the war in Iraq, and we give it to him. If he came to this Congress—I hate to say it because I think he is a great President and a great person, and I support him on so many things. But he has never come to our Congress and said: Congress, this border is out of control; I need A, B, C, and D, and I will get it under control. So now he wants us to grant blanket amnesty to 11 million people, and after you do that: Trust me, I will get the border under control. That is a sad fact. Securing the border is the President's responsibility.

What about Congress? We were in committee and we were debating the bill. I offered an amendment to add 10,000 detention beds for the Border Patrol. I do not know how many they need. I think that is not enough. We are at 1.1 people coming into our country illegally every year. The number of people other than Mexicans who really need to be detained, sometimes for an extended period of time, has surged. We need the detention spaces to make the system work. Do you know what they all said, Democrats and Republicans? Fine. We accept that amendment. Senator FEINSTEIN and I offered an amendment to speed up the hiring of new Border Patrol agents. They accepted that. Then it hit me. All who have been in this body for some time know the difference between authorization and spending the money, appropriations. In this body, people authorize all the time.

I just left one of the finest groups of people you would every want to meet outside—national forensic science leaders from around the country. They came to see me because I supported a bill, and we passed it, the Paul Coverdell forensic sciences bill. It was to add $100 million to help jump-start forensic sciences in America. Do you think that $100 million was ever appropriated? Certainly not. I think we may have gotten to $20 million one year. Because you authorize money to be spent for forensic sciences or for immigration enforcement does not mean that it is ever going to get spent. It has to go through the appropriations process. Maybe they want to spend it on a project back home. Maybe they decided we need more money for Katrina, health issues, education, whatever. At the end of the day, you don't get the money. So we have at least two major problems: One, will it ever be appropriated and two, if the money is appropriated, will the President actually use it effectively?

I admit that this Congress authorized a budget that set forth a projected expenditure for immigration enforcement that is larger than the President requested, but it remains to be seen if it will ever be funded.

Those are the things which cause us great concern. So I would challenge quite directly the people who support this bill and say this is going to be different than 1986 to come down on the floor of this Senate, look at their colleagues and people who may be watching back home directly in the eye, and assure them that we are going to have the money and we are going to have the will to enforce this legislation.

I was on a radio talk show earlier today. I was asked about enforcement actions that were taken against certain big businesses recently. They all called their Congressmen and complained, and the enforcement sort of went away. You have heard those stories. Do we have the will to actually make this happen? I think we could. I am not hopeless about this. I think we could, but I don't get the sense that we are there yet.

I have compared it to leaping across a 10-foot chasm but leaping only 8 feet, and like the Coyote and the Roadrunner, you fall to the bottom of the pit. That is where we are. We have some things in this bill which make enforcement much more likely to occur, but it does not all get there yet. We need to do a number of things.

For example, employment: The workplace law and provisions in the bill are

not effective and do not cover all employees of an employer. It is a critical step. You have heard it said that this bill has fencing in it. It is the most minimal amount of fencing; it is nothing like a legitimate fencing.

I wish to say this: Good fences make good neighbors. There is nothing wrong with a fence. There is nothing in the Scripture that says you can't build a fence. You have thousands of people coming across the border in a given area, and you have just a few Border Patrol officers, and they are trying to do their duty every day. And you say it is somehow offensive or improper or against the Lord's will to build a fence to try to contain it so you can maximize the capabilities of the limited number of Border Patrol agents who are out there putting their lives at risk this very day to try to enforce these laws? They arrest 1.1 million a year. What possible objection could we have to legitimate fencing?

They built one in San Diego; it was an unqualified success. They said it could be breached. I am told the one in San Diego has never been breached. What happened on both sides of the fence, where lawlessness, crime, gangs, and drugs were disrupting entire neighborhoods? Those neighborhoods have been restored. They have come back strong. They are prospering. The property values are up as a result of bringing some lawfulness to a lawless area.

Let me say this. Why is it that there has been such an aversion to fences? I will tell you why. Because those who want to have open borders, who have no desire to see the laws enforced, know, first of all, that it will work; and second of all, they have used it to twist the argument and to say that anybody who favors a fence wants no immigration, they want to stop all immigration, they just want to build a fence around America—totally mischaracterizing the need for a barrier on our borders. That is not fair. That is wrong.

The amendment I offered would have increased substantially the number of border-crossing points, so lawful people could come back and forth far easier and at less expense with a biometric card. They could enter and exit the country with it. This could work. We can make this work. We need more legal exit and entry points, and we need to block the illegal entry points. If we do that and we send a message throughout the world that the border is now closed and no longer open to those who want to come illegally, I think we will have a lot less people wandering off in the desert, being abused by those who transport them, and putting their lives at risk and many of them dying.

That is what you need to do. I am prepared to support any legislation that would increase legal immigration. When we end illegal immigration, we are going to need to increase the opportunity for people in numbers to come here lawfully, and we need to increase the exit and entry points.

Another thing. I mentioned this biometric card and entering and exiting the country. Let me tell you why some of us are concerned about promises in the future.

We passed, 10 years ago, the US-VISIT program. It is supposed to do just what I said. A person comes to this country legally, comes with a card. It is a computer-read card, and the person is then approved for entry. They need a biometric identifier, a fingerprint, and it can read that. You are allowed to come in. It also calculates when you leave, so people who do not leave can be identified and removed because they didn't comply with the law.

Well, 10 years after passing that bill, we still don't have that system up and running. They tell us that this summer, we will have some pilot program which can actually identify those when they exit in certain border places, which, of course, means it is no system at all.

We authorized 10 years ago a perfectly logical, sensible system to monitor the legal entry of people into our country, monitor their exit. What we have learned, particularly after September 11, is that many of the terrorists were overstays. They came lawfully, but they did not exit on time.

We need additional bed space. This is so basic. Not an unlimited number of beds, but we need more. What is happening is, people come across the border, and particularly those other-than-Mexicans cannot be readily taken back across the border and dumped if they are from Brazil, Russia, or China. What do we do with these people? They need to be held and they need to be transported back. We are doing that, to some degree.

But what happens when we do not have the bed space? This is what happens. I read a newspaper article in the committee a couple of months ago on this very subject. People come in from foreign countries. They come into the border, enter illegally, head off across the desert, they see a border patrol officer and they are told to go up to the border patrol officer and turn themselves in.

Why would they do that? The border patrol officer puts them in the van or his vehicle and he takes them another 100 miles inside the border to the Customs and Border Protection Office and they are taken before an administrative officer. What does the administrative officer do? He does not have any beds or place to put them, so he says we will have a hearing on whether you are legally here. We will have a hearing and we will set it in 30 days. I will release you on bail; come back in 30 days.

How many do you think come back? The newspaper reporter said at the place he examined, 95 percent did not show up. So all we have done is send the border patrol agents out to pick them up and transport people into the country illegally. That does not make sense. We have to have a certain amount of detention space.

We have an insufficient number of Border Patrol agents. There are just not enough. We need to get to that tipping point where people realize it is not going to work if they try to enter illegally. We added some Border Patrol agents in committee, but they say it takes years to hire them. That is why we passed, 5 years ago, legislation to add increased numbers of Border Patrol agents. Senator KYL got that through. Being on the Arizona border, he knew the problem. What happened? They still have just now been hired 5 years later. They say it is hard to hire enough people.

I was reading recently a book on World War I. When World War I started, we had 130,000 people in our Army, and 18 months later we had 4 million people in uniform, 2 million of them in France. To say we cannot add 10,000 trained Border Patrol agents and get them trained in a prompt period of time is not credible. There has been a lack of will to see this occur. Who is to say if we pass this legislation we will have a renewed will in the future? The American people have a right.

We had a hearing on Monday in the Judiciary Committee. It dealt with the problem of the appeals being filed by people who object to being returned to their country. Since 2001, 4 years, we have had a 600-percent increase in appeals to the Federal court, court of appeals. You can legitimately appeal a determination you are in the country illegally, but a sixfold increase in 4 years? What has that resulted in? It has resulted in a 27-month delay before your case is heard.

What does this tell an immigration lawyer who is meeting with a person who has been apprehended and who has an appeal pending about being deported and the guy or the woman does not want to leave the country and says, if you appeal, even if it is frivolous, it will be 27 months before anyone ever reads it or makes a decision. That is why we are having this surge. That system is broken.

Senator SPECTER, Judiciary Committee chairman, had legislation in his bill in the Judiciary Committee to help fix it—not completely, I didn't think—that made a substantial step toward fixing this broken system. They offered an amendment in committee to strip that language and it passed. So not only did we not improve the bill and have not improved the bill with regard to fixing the broken system, but we stripped language that would have made a good step forward in fixing.

What does that say about the intent of the Members of this Congress to actually see the immigration law be enforced?

I repeat once again, our nation is a nation of immigrants. We believe in immigration. We have been enriched by immigration. But our Nation is a sovereign nation and it has a right to decide how many people come and what kind of skill sets they bring. Once it makes that decision, it should create a

legal system that will make sure that occurs. We have not done that.

As a result, in 1986 we provided amnesty, which no one disputes. Not Senator LEAHY, not Senator REID. We gave amnesty in 1986, thinking we could fix it once and for all. And 20 years later we end up with not 3 million people here illegally but at least 11 million people here illegally and no enforcement mechanism close to being in place that would actually work. I encourage my colleagues to think carefully. We can fix our border enforcement. We can increase the number of people who come here illegally. We can tighten up the workforce workplace very easily. We can make this system work.

As we tighten up the border, we eliminate the magnet of the workplace, we can reach that magic tipping point where all of a sudden the message is going out around the world that if you want to come to America, the border is closed. You better wait in line and file your application and come lawfully because if you come unlawfully, it won't work. Then we will have a massive flip. We will not see so many bed spaces. We may not even need as many Border Patrol agents as we have today. But that message is not out there. In fact, the opposite is out there. If we pass this bill, it will be business as usual. We should not do it.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Washington.

PORT SECURITY

Mrs. MURRAY. Mr. President, I rise today to report on some of the progress we have made in our effort to secure our Nation's ports and our cargo container system.

This morning, I testified before the Senate Committee on Homeland Security and Governmental Affairs about the GreenLane Maritime Cargo Security Act which I introduced last year with Senators COLLINS, COLEMAN, and LIEBERMAN. That critical and effective bill is on the fast track both in the House and in the Senate.

While that hearing was starting, we received another urgent reminder of why we need to improve our cargo security in this Nation. This morning, this very morning at the Port of Seattle, 21 Chinese nationals were discovered. They had been smuggled into the United States in a cargo container. That incident is a stark remainder that we today are still not doing enough to keep our cargo container system secure. This appears to have been a case of human smuggling, but that cargo container could have been filled with anything from a dirty bomb to a cell of terrorists. Today our country is vulnerable to a terrorist attack. Time is not on our side.

I will spend a few minutes this afternoon outlining the threat and explaining how our legislation helps. By using cargo containers, terrorists can deliver a one-two punch to our country. The first punch would create an untold number of American casualties. The second punch would bring our economy to a halt.

Cargo containers carry the building blocks of our economy, but they can also carry the deadly tools of a terror attack. Today we are not doing enough to keep America safe.

In the Senate it can feel as though the dangers at our ports are millions of miles away, but in recent years some in our Government have said they could never have imagined the devastation caused by recent disasters.

Let me make this crystal clear. On March 21, 2 weeks ago, a container ship called the Hyundai Fortune was traveling off the coast of Yemen when an explosion occurred in the rear of that ship. Here is a photo of what happened next. About 90 containers were blown off the side of the ship, creating a debris field 5 miles long. Thankfully, there were few fatalities and the crew was rescued. They are still investigating the cause. It does not appear at this time to be terrorist related.

Imagine this same burning ship sitting a few feet from our shores in New York, or Puget Sound, off the coast of Los Angeles, Charleston, Miami, Portland, Delaware Bay, or the Gulf of Mexico. Imagine we are not just dealing with a conventional explosion but we are dealing with a dirty bomb that has exploded on America's shore. Let me walk through what would happen next.

First, there would be an immediate loss of life. Many of our ports are located in or near major cities. If there was a nuclear device exploded at a major port, up to a million people could be killed. If this was a chemical weapon exploding in Seattle, the chemical plume could contaminate our rail system, Interstate 5, Sea-Tac Airport, not to mention our entire downtown business and residential areas. At the port there would immediately be a lot of confusion. People would try to contain the fire. But it is unclear today who, if anyone, would be in charge.

Then, when word spreads that it is a dirty bomb, panic is likely to set in and there would be chaos as first responders try to react and people who live in the area try to flee.

Next, our Government would shut down every port in America to make sure there were not any other bombs or any other containers in any one of our cities. That shutdown would be the equivalent of driving our economy right into a brick wall and it could even spark a global recession. Day by day we would be feeling the painful economic impact of such an attack. American factories would not be able to get the supplies they needed. They would have to shut their doors and lay off workers. Stores across our country would not be able to get the products they need to stock their shelves.

In 2002, we saw what a closure of just a few ports on the west coast could do. It could cost our economy about $1 billion a day. Now, imagine if we shut down all of our ports. One study concluded that if U.S. ports were shut down for just 12 days, it would cost $58 billion.

Next, we would soon realize we have no plan for resuming trade after an attack—no protocol for what would be searched, what would be allowed in, or even who would be in charge. There would be a mad scramble to create a new system in a crisis atmosphere.

Eventually, we would begin the slow process of manually inspecting all the cargo that is waiting to enter the U.S. ports. One report has found it could take as long as 4 months to get it all inspected and moving again.

Finally, we would have to set up a new regime for port security. I can bet you that any new rushed plan would not balance strong security with efficient trade.

The scenario I just outlined could happen tomorrow. We are not prepared. Nearly 5 years after September 11, we still have not closed a major loophole that threatens our lives and our economy. Time is not on our side. We must act.

I approach this as someone who understands the importance of both improving security and maintaining the flow of commerce. My home State of Washington is the most trade-dependent State in the Nation. We know what is at stake if there were an incident at one of our ports. That is why I wrote and funded Operation Safe Commerce, to help us find where we are vulnerable and to evaluate the best security practices. It is why I have worked to boost funding for the Coast Guard and have fought to keep the Port Security Grant Program from being eliminated year after year.

Right after 9/11, I started talking with security and trade experts to find out what we need to be doing to both improve security and to keep our commerce flowing. Ten months ago, I sought out Senator COLLINS as a partner in this effort. I approached Senator COLLINS because I knew she cared about this issue. I knew she had done a lot of work on it already, and I knew she was someone who would get things done. Since that day, we have worked hand in hand to develop a bill and move it forward. I am very grateful to Senator LIEBERMAN and Senator COLEMAN for their tremendous work on this issue as well.

The GreenLane Act, which we had a hearing on this morning, recognizes two facts: We must protect our country and we must keep our trade flowing.

We know we are vulnerable. Terrorists have many opportunities to introduce deadly cargo into a container. It could be tampered with any time from when it leaves a foreign factory overseas to when it arrives at a consolidation warehouse and moves to a foreign port. It could be tampered with while it is en route to the United States.

There are several dangers. I outlined what would happen if terrorists exploded a container in one of our ports.

But they could as easily use cargo containers to transport weapons or personnel into the United States to launch an attack anywhere on American soil.

The programs we have in place today are totally inadequate. Last May, thanks to the insistence of Senators COLLINS and COLEMAN, the Government Accountability Office found that C–TPAT was not checking to see if companies were doing what they promised in their security plans.

Even when U.S. Customs inspectors do find something suspicious at a foreign port, they cannot today force that container to be inspected. So we have a clear and deadly threat. We know current programs are inadequate. The question is, what are we going to do about it? We could manually inspect every container, but that would cripple our economy.

The real challenge here is to make trade more secure without slowing it to a crawl. That is why Senators COLLINS, COLEMAN, LIEBERMAN, and I have been working with the stakeholders and experts to strike the right balance. The result is the GreenLane Maritime Cargo Security Act. That bill provides a comprehensive blueprint for how we can improve security while we keep trade efficient.

At its very heart, this challenge is about keeping the good things about trade—speed and efficiency—without being vulnerable to the bad things about trade—the potential for terrorists to use our engines of commerce.

Our bill does five things.

First, it creates tough, new standards for all cargo. Today we do not have any standards for cargo security.

Secondly, it creates what we call the GreenLane option, which will provide an even higher level of security. Companies that join it have to follow the higher standards of the GreenLane cargo. Their cargo would be essentially tracked and monitored from the moment it leaves a factory floor overseas until it reaches the United States. We will know everywhere that cargo has been. We will know every person who has touched it. And we will know if it has been tampered with. The GreenLane essentially pushes our borders out by conducting inspections overseas before cargo is ever loaded onto a ship bound for the United States. We provide incentives for companies to use the highest standards of GreenLane.

Third, our bill sets up a plan to resume trade quickly and safely, to minimize the impact on our economy.

Fourth, our bill will secure our ports here at home by funding port security grants at $400 million.

And, finally, our bill will hold DHS accountable for improving cargo security. DHS is long overdue in establishing cargo security standards and transportation worker credentials. We need to hold DHS accountable, and our bill provides that infrastructure to ensure accountability and coordination.

I thank all of our cosponsors and our partners. I especially thank Senator COLLINS for her tremendous leadership. She chaired the hearing this morning, and her expertise and her commitment were clear to everyone in the hearing room.

I also thank Senator COLEMAN for his leadership and his work as chairman of the Permanent Subcommittee on Investigations. Senator COLEMAN has helped expose our vulnerabilities and has worked to develop solutions.

I also thank Senator LIEBERMAN for his leadership and support. I commend our cosponsors, including SENATORS FEINSTEIN, SNOWE, and DEWINE.

I would add, we are also beginning to see progress on the House side with the SAFE Port Act. I thank Representatives DAN LUNGREN and JANE HARMAN for their leadership on that side.

Today we have a choice in how we deal with cargo security challenges facing us. But if we wait for a disaster, our choices are going to be much starker. Let's make the changes now, on our terms, before there is a deadly incident. Let us not wait until a terrorist incident strikes again to protect our people and our economy.

Two months ago, the people of America woke up and spoke out when they heard that a foreign government-owned company could be running our ports. That sparked a critical debate. Now we need to set up a security regime that will actually make us safer. Until we do so, none of us should sleep well at night. A terrible image such as this one—a burning container ship with a dirty bomb in one of America's harbors—could be on our TV screens tomorrow. So this Congress must act today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I want to return to the issue before us and which has been before the Senate for the last week and a half, and to say it has been my pleasure to work on the issue of immigration reform and border security ever since I have been in this Senate—a little over 3 years now.

As a Senator from a border State, it will come as no surprise that I have actually spent a fair amount of time along the border talking to my constituents, as well as visiting Mexico and other countries that are a source of a large number of immigrants who come to our country seeking a better life.

I believe that experience has given me some insight into what the challenges we have are when it comes to border security. Of course, we have proposals before this body to deal with this issue of our porous borders and the need to find some way to deal with the workforce demands of this growing economy of ours.

We need comprehensive immigration reform. I have consistently called for comprehensive reform because I believe we will not fix the broken immigration system unless we address all aspects of the problem; that is, border security; interior enforcement; worksite enforcement; and the 12 million who are in our country without authorization, finding some way to allow them to reenter our immigration system legally, and to give them a second chance living in the country, not in the shadows but out in the open, and enjoying the benefits and protection of our laws.

This is, as we have all discovered, an exceedingly complex issue. And no one—no one—has a monopoly on all wisdom or on suggestions for ways to improve the system. The Senator from Arizona, Mr. KYL, has one amendment pending that I believe will improve the proposal on the floor of the Senate, which is the bill produced by the Judiciary Committee. He has sought a vote, and I have joined him in seeking a vote, on that amendment to the bill that is on the floor. I have several other amendments that have been filed that will also, in my opinion, improve the work of the committee.

But we have been denied an opportunity to have those amendments considered and voted on by the Senate because the Democratic leader has simply refused to allow any amendment that he personally does not agree with to get a vote. We have had three votes in the last week and a half, relatively—I should say completely noncontroversial votes—but the Democratic leader has refused to let the Senate vote on Senator KYL's amendment.

This is particularly troubling to me because it is one that I believe the American people would wholeheartedly agree with, and that—whatever we decide to do with regard to the 12 million people who are currently living in our country in the shadows and outside the law—we ought to make sure whatever we do does not include a blanket amnesty for 500,000 or so felons, individuals who have committed at least three misdemeanors, and those who have had their day in court, who are under final orders of deportation or who have agreed to voluntarily leave the country once they have been caught in the country illegally.

Those individuals, either because they have had their day in court or because they are, in fact, felons or people with criminal records, ought not to get the benefits, whatever they may ultimately be, of the amnesty that is proposed in the underlying bill.

This is especially troubling to me because, as I have said earlier, if you look at what happened in 1986, with the Immigration Reform Act that was passed then, Congress, in effect, told America you should trust us to enforce the laws, but, of course, as we now know, that did not happen. Indeed, when the amnesty was granted in 1986, some 3 million people stood to benefit from that amnesty.

I have demonstrated here on the floor that that amnesty, which we all agree, in fact, meets that definition, was a complete and total failure. The reason why it was a complete and total failure is because the American people were,

in essence, told one thing and Congress did another.

I believe the American people will forgive an awful lot of mistakes, but they will not forgive being fooled twice. The proposal that is on the floor now, the committee bill that is being proposed, would, in fact, be a repeat of what happened in 1986, except to the extent that it is actually even worse because in 1986, in order to get the benefit of the amnesty, you could not be a felon, you could not be a person with at least three misdemeanors, but under this bill, as offered and as voted out of the Judiciary Committee, you can. Thus, you can see the importance of having a vote on this amendment, which we have been denied, even though it was offered last Friday.

Now here we come up on the midweek, and we are going to have a recess of Congress for the next 2 weeks after this Friday, and I am afraid that because of the lack of movement and progress on this bill, there are going to be some who are going to be blamed for our inability to move forward. And I submit—I hate to say this, but I submit that the blame lies on those who simply denied the greatest deliberative body on the planet from the chance to actually consider and vote on amendments to this bill.

This is not democracy. This is not what we are trying to export to other countries that have known nothing other than the boot heel of a tyrant. This is not our finest hour because what we are seeing is the minority leader on the other side simply denying democracy in action. It is intolerable and inexcusable.

It is clear to me that if we are unsuccessful in getting this bill through the floor and passed and an opportunity for the process to reconcile the differences between the Senate and the House version, should we get a Senate version, the blame will lie at the feet of the Democratic leader.

One of the things Congress promised the American people in 1986 was there would actually be a fraud detection system as part of the amnesty that was then granted to make sure it would actually be successful and that we would not have to find ourselves in the condition we are in today where at the time we had 3 million who benefited from the amnesty and now today the potential number is 12 million. We know the potential for amnesty is a huge magnet for those who come to this country in violation of our immigration laws. I don't want to find the Senate, 5 or 10 or 20 years from now, saying: In 1986, it was 3 million who wanted to benefit from amnesty. In 2006, it was 12 million. And 20 years from now we find the number is 24 million.

We know this is a national security problem. We know that we have, as a sovereign nation, a right to protect our borders. We know there are on average 2,300 people coming into our country each day. Each day the Democratic leader denies us an opportunity to fix that problem, to allow the process to go forward, we are seeing 2,300 more people come into the country illegally. I hope and pray it is not a criminal, a terrorist, someone who intends to do us harm but, indeed, it could well be.

The Democratic leader supports a bill that would grant an automatic path to citizenship for 12 million people who are in this country in violation of our immigration laws, yet he won't allow a vote on an amendment that would bar felons and repeated criminal offenders from participating in the program. He argues that he likes the bill voted out of the Judiciary Committee and doesn't believe that amendment will, in fact, improve it. He certainly is entitled to his opinion, but he is not entitled to obstruct the process. He is not entitled to dictate to the Senate or the American people what this particular legislation will look like.

I simply don't understand why this amendment, that would bar felons and repeat offenders and which actually clarifies that they can't be given whatever benefit will be conferred by this bill, would create any controversy whatsoever. If the American people were polled or asked, do you think we ought to bar convicted felons, do you think we ought to bar repeat criminal offenders from the grant of amnesty, I think they would say yes. If given an opportunity for a vote on the floor, this body will say yes, because we are representative of the American people. Yet we have been denied that chance for a vote.

There is simply a credibility gap with the American people on immigration and border security. Congress needs to openly debate and vote on amendments so there is transparency regarding who will receive green cards and whether there are sufficient protections against fraud that ran rampant during 1986, with the amnesty that was granted at that time. As someone who has worked on this issue and devoted time to it, I want nothing more than the opportunity to debate and vote on amendments. I am interested, and I believe most Senators are actually interested, in trying to find a solution to this problem. But we are met with obstruction and a refusal to let the process move forward. It is simply unacceptable.

We cannot debate and vote on amendments until there has been an agreement on who will participate in the program and the extent to which fraud can be detected and prevented. Yet the Democratic leader does not believe it is necessary to secure the confidence of the American people that Congress is not giving amnesty to felons or repeat criminal offenders. Without public debate and votes with regard to the foundation of this proposal, none of us will be able to return home and defend the broader policy implications of this complex legislation.

The Kyl amendment has been pending since last Thursday. Not a single Senator has voted to table that amendment. Yesterday we went through a strange exercise where, in order to determine how we can obtain some progress on this bill, there was actually a motion to table the Kyl amendment that would bar felons and repeat criminal offenders. Every single Senator who voted voted not to table the amendment. Ordinarily that would indicate an agreement with the amendment. Yet we were not given an opportunity to vote on the amendment. The amendment ordinarily would be accepted by the manager of the bill or would be subject to a voice vote and become part of the larger bill, but that didn't happen because we, unfortunately, have some people in the process who are not interested in finding solutions. They are not interested in allowing the process to move forward but, rather, they are more interested in trying to jam their solution down the throat of the rest of the Senate and to deny the rest of us a chance to offer suggestions and to get votes.

I don't like to lose any more than anyone else, but I am willing to submit to this body amendments that I have and on which I wish to have a vote. I hope to persuade my fellow Senators that these amendments are actually an improvement over the bill that is before the Senate. But if this body decides, 51 or more Senators decide, to vote against those amendments, I am willing to accept that. That is democracy. That is majority rule. But to simply defy majorities and the process and say, if I don't like it, I am not going to allow anybody else to amend it, is unacceptable. In an institution known as the world's greatest deliberative body, it brings this body no honor to obstruct the process and to try to jam this unacceptable bill down our throats.

The current committee bill disqualifies from the legalization program any alien who is ineligible for a visa. The Kyl-Cornyn amendment would clarify that by saying any alien who is ineligible for a visa or who has been convicted of a felony or three misdemeanors would be ineligible from the legalization program.

There are certain crimes, including felonies, that do not disqualify an alien for a visa. This amendment, therefore, ensures that no felon or repeat criminal offender will obtain an automatic path to a green card and permanent residence in the United States.

This amendment is exactly the same text that was in the 1986 amnesty. In other words, the very amendment Senator KYL and I have offered to exclude felons and three-time misdemeanants was part of the 1986 amnesty. So the proposal on the floor is even weaker than the amnesty granted in 1986.

All we are trying to do is to bring it on a par with that amnesty of 1986. Crimes that do not automatically disqualify an alien for a visa and would not, therefore, be covered by the Judiciary Committee bill that is on the floor include assault and battery, manslaughter, kidnapping, weapons possession—for example, possession of a

sawed-off shotgun—contributing to the delinquency of a minor, burglary, including possession of tools to commit burglary, malicious destruction of property, possession of stolen property, alien smuggling, conspiracy to commit offenses against the United States, and money laundering. Unless we are able to get a vote on the amendment that is now pending that Senator KYL and I have offered to exclude felons and three-time misdemeanants, the proposal this body is asked to accept would give amnesty to people who have engaged in alien smuggling, manslaughter, kidnapping, or illegal possession of a sawed-off shotgun.

The American people will forgive a lot, but they won't be fooled again. And they won't forgive us if a minority of this body tries to jam down the throats of the rest of the Senate provisions which would allow the entry of these individuals into the United States and would confer a blanket amnesty and a path to a green card and legal permanent residency in the United States. It simply defies common sense.

I have a number of additional amendments I intend to offer and intend to ask for a vote on. I will not be satisfied—and I submit there are other Senators who will not vote to close off debate—until we get a chance to have these considered on the Senate floor. One amendment, No. 3310, addresses the confidentiality provisions. The Judiciary Committee amendment that is on the floor contains provisions that would prohibit the use of information furnished by an applicant to be used for any purpose other than a determination on the application. While the committee amendment would allow the information to be shared with law enforcement entities upon their request, the information could not be used by the Department of Homeland Security to investigate fraud in the program.

It is also worth noting that these provisions almost word for word were included in the 1986 amnesty but are missing from the proposal that is now on the floor. These confidentiality provisions have been cited by Government authorities as one reason why there is so much fraud in our immigration system, particularly the amnesty that was granted in 1986.

For example, the testimony of Paul Virtue, former Immigration and Naturalization Service general counsel, in 1999 before the House regarding fraud in the prior amnesty program:

> There is no question that the provisions of [that 1986 amnesty] were subject to widespread abuse, especially the Special Agricultural Worker program that granted agricultural workers who had performed 90 days of qualifying agricultural employment within a specific period temporary lawful status that automatically converted to permanent lawful status after one year.
>
> Nearly 1.3 million applications were filed under [this Special Agricultural Worker] status, about double the number of foreign farm workers usually employed in the United States in any given year.
>
> Much of the fraud that occurred under the IRCA
>
> —the 1986 amnesty bill—
>
> is attributable to statutory limitations placed on [the Immigration and Naturalization Service].
>
> The confidentiality restrictions of law . . . prevented INS from pursuing cases of possible fraud detected during the application process. The agency was further thwarted by the courts, which ruled that INS could not deny an application simply because the supporting documentation was from a claimed employer suspected or convicted of fraud.

Let me say that again. He said the confidentiality restrictions contained in the underlying bill here that I want to amend thwarted the INS from denying an application simply because the supporting documentation was from an employer ''suspected or convicted of fraud.''

In 1986, just a few million amnesty applications were filed, but under this bill, Congress is now considering an amnesty for 12 million immigrants who are in this country in an unauthorized status. We need to make sure we don't hamper the Immigration and Naturalization Service's ability to detect fraud. Yet this amendment would repeat the worst failures of that 1986 amnesty.

One other amendment I have filed and intend to call up, if we are ever given a chance to have amendments and votes on this bill, is amendment No. 3309.

The committee amendment pending on the floor, which I offer this amendment to improve, would create safe harbors for illegal aliens who have filed applications for conditional immigration status.

To be clear, these are not aliens who have yet established eligibility, or have even gone through background and security checks. They have simply filed an application with the Government, and their application might be in a stack of 10 million other applications.

Under this committee amendment, the one pending on the floor, to be clear, the Department of Homeland Security would be required to issue a travel document and an employment authorization document to an alien before the agency has even determined eligibility under the program. Travel documents are as important as weapons. Yet this section would require the Department of Homeland Security to issue a travel document to all illegal aliens simply because they have filed an application.

Under the underlying bill, an illegal alien may not be detained, ordered deported, or removed while the alien has an application pending. That means any illegal alien can simply file an application to avoid deportation, and many will, of course, because it could take several years, and probably will take several years, for the Department of Homeland Security to process all applications.

Another disturbing point is there are also no carve-outs for criminal aliens or other dangerous illegal aliens who would normally be subject to mandatory detention. This underlying bill could be interpreted as not allowing the Department of Homeland Security to detain any alien, irrespective of how dangerous that alien is to society.

While the amendment does say an alien may be deported if the alien ''becomes ineligible,'' that is prospective and it means any illegal alien could only be subject to deportation for criminal activity that occurs after they filed their application.

We should be unwilling to create a significant loophole for criminal illegal aliens who could avoid deportation or detention by simply filing an application with the Government.

The underlying bill would require the Department of Homeland Security to allow any alien apprehended before the program is operational, which could be several years down the road, to apply for amnesty after the program is up and running. If it does indeed take several years, that means our immigration enforcement system, which right now apprehends more than a million illegal aliens a year on the southern border, would grind to a halt because any alien who is apprehended could simply file an application or indicate an intent to file an application, and the Government would be required to stop the removal process to allow that to occur.

Mr. President, I know there are other Senators who wish to speak. I am going to stop in a moment to give them that opportunity.

My point is there are many commonsense amendments that I believe would garner the support of a majority of the Senate because they are commonsense amendments. But as long as we are blocked from having those amendments called up and considered and voted on, then there is no way that Members of this body should vote to close off debate, vote for cloture, because we will be producing a product that is simply unworthy of the trust that has been placed in us by the American people. I believe that no individual Senator and, indeed, no leader of either party should be allowed to refuse to allow this process to move forward. I think what is going to happen, because I think we are on a path toward failure—at least between now and Friday—and what we are going to see is the blame game.

There is going to be an attempt by those who have blocked this process from going forward to point the finger of blame at those who have voted against ending the debate because we cannot get a vote on our amendments. I want to make it clear where the fault lies. That blame should be squarely placed at the feet of the Democratic leader, who has denied us an opportunity to have a vote on these commonsense amendments—amendments that I believe the American people would agree with and, if given an opportunity, I believe the Senate would agree with.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. No. We are on the bill.

Mr. DORGAN. Mr. President, I listened with some interest to my colleague. I have to observe, though, he said that now we are going to see the blame game, and he tells us where the fault lies. Well, that is the first chapter of the blame game. I have not been out here with respect to amendments. I have been chairing a hearing for a couple of hours. But I say this to those who are talking about these amendments: Those of us on this side of the aisle have certainly had a great deal of experience with having our amendments not considered by the Senate. Most recently, we had an amendment to a bill that would have dealt with this issue of the Dubai company taking over American ports. The United Arab Emirates' wholly-owned company, Dubai Ports World, was going to take over the management of American shipping ports. We attempted to offer an amendment, but it shut the Senate down because the majority party didn't want an amendment such as that offered.

I have been trying for a couple of years to offer an amendment on the reimportation of prescription drugs to drive down prescription drug prices in this country. We have been thwarted on that. I could go on at some great length. To the extent there is a complaint that some have not been able to offer amendments, we understand that pretty well. We have been in that position for a couple of years now, including my colleague from Arizona, Senator MCCAIN, who offered an amendment that would have effectively prohibited our country from engaging in torture with respect to those whom we have apprehended during wartime. That amendment on the prohibition of torture shut down the consideration of the Defense authorization bill last year month after month because the majority didn't want to vote on the McCain amendment on torture. So there is plenty of practice that has existed in this Chamber for prohibiting amendments.

Again, I don't know what the approach has been this morning on the floor because I have not been here. When I listen to discussions about why can we not offer amendments, that is a cry that has been echoing in this Chamber for a couple of years, much to the regret of those of us who have had amendments to offer. It is a cry that has not been heard by the majority party, which now jumps to the front of the line to complain today.

I want to talk about this issue of the underlying bill, the immigration bill and guest workers. I should also start by saying I don't have any particular claim to understanding or expertise in this area. I don't serve on the Judiciary Committee. I was not someone who helped write the underlying bill. So I don't come to the floor to claim to be an expert on the legislation. But I have spent a great deal of time in the last year or so doing research in a range of areas for a writing project dealing with American jobs and American workers, so I claim to know something about that.

I claim to know, for example, that we have lost somewhere around 3 million-plus jobs in this country, most of them having moved to China or Indonesia or Bangladesh or Sri Lanka—but most perhaps to China. We have lost millions of jobs in this country in the last 3½ to 4 years. American workers, middle-income workers, and particularly workers at the bottom of the economic ladder, have been devastated by what has happened with this race toward globalization and the race by the largest American corporations to produce where it is cheap, and then sell their products in our marketplace. All of that is going on in a very accelerated way.

Now we see, with the bill brought to the floor of the Senate, not only do we have a strategy in this country of allowing the export of good American jobs, now we will have a strategy of importing additional low-wage jobs.

I will review some numbers, if I might. We have somewhere around 11 million to 12 million people who have come into this country illegally and have stayed here. Some have been here a long while, and some recently arrived.

Is it surprising that we have a lot of people who have come into this country and stayed in violation of the law? No, it is not surprising to me. We live in a big world, and a lot of people in this world don't have the opportunities we have in this country. We have built something very special in the United States. This is a country that provides basic rights for people. It took us some while to perfect all that, but having struggled through the issues of civil rights, workers' rights, and women's rights, we have created an extraordinary country in which workers can band together to collectively bargain and negotiate. We have made decisions about the workplace and the right of a worker to work in a safe workplace, child labor laws, minimum wages, environmental protection, so you cannot produce a product and emit poisonous chemicals into the air and water.

At the same time, we have created circumstances where businesses can earn a profit, and a good one. This is an economy in which we have a vast consumer base, with the most affluent consumers in the world. All of that coming together created a country that is unparalleled on the face of this planet. So if you go anywhere in the world, and particularly impoverished areas in less developed countries, you will find, in discussing this with those people, that many would say they want to come to the United States of America. If you ask the question ''why,'' they will say it is because there is opportunity there, jobs there, better income, better pay. That is what you find. I have found that in many parts of the world, particularly in less developed countries.

Think for a moment what would be the case if tomorrow the United States said: Look, what we have built here is quite wonderful. We understand it is unique and we want to share it with everyone. We have no immigration quotas and anybody who wishes to come here can come. Tomorrow, you are all welcome. Come and stay as long as you want.

What would be the consequences of that? We all know the consequences of that. Those who are living in impoverished conditions from other parts of the world will find their way to this country. We will be importing poverty and we will have a massive number of people migrating to the United States of America, because they would see this as an opportunity. So we don't have a circumstance where we say that anybody who wants to come tomorrow, come on, this is wide open, and stay as long as you want. No. We have a series of quotas for immigrants. We have immigration quotas by country, by category, and then we allow people in based on these quotas.

I will describe exactly what we now face. We have 11 million to 12 million people who are here illegally. Last year, according to data I have seen, 1.1 million additional people tried to cross the border from Mexico into this country, but they were denied access. So 1.1 million were kept out who wanted to come in. And 400,000 to 700,000 who wanted in illegally got in illegally and are here. They came last year. Another roughly 150,000 people—according to estimates I have seen—are here on a temporary basis, H–2A or H–2B. Another 175,000 people came in last year legally, as family members and quotas, just from Mexico. That is what we face.

Now, at the same time we face these pressures of people wanting to come into our country, particularly in most cases low-skilled and low-wage workers, we face the largest trade deficits in the history of the world. We face the wholesale movement of American jobs overseas. So we see the two elements of the worst marriage of public policy; those are the export of good American jobs to China and elsewhere, and the import of low-wage workers to take the jobs of those in this country who are at the bottom of the economic ladder. That is about corporations, big companies, about their strategy, which has been embraced and given a bear hug by this President and the Congress, controlled by the President's party, standing for corporations and their interests. Export American jobs, do another trade deal, cause more American jobs to leave this country. Import cheap labor.

Why? They say: We want to import more cheap labor because we cannot

find Americans to do the work. So not only does the bill on the floor of the Senate describe that we will create a legal status for 11 million to 12 million people who are here because, practically speaking, nobody is going to round them up, or arrest them, or detain them, or export them—we will create a status for those folks—but in addition to that, it says let's also create a new guest worker program of 400,000 people per year each year, with an escalator of being able to increase that by 20 percent each year, which over 6 years could amount to 4.7 million more people coming into this country who now live outside of this country.

And so the bill provides a guest worker program saying we not only want to deal with the legalization of those who are here illegally—millions and millions and millions of them—we also want to add potentially another 4.7 million. And, by the way, there is more than that, but that is just the piece about which I am talking. On top of that would be the provisions dealing with the new agricultural workers, which was an amendment offered in the committee.

So where do these 4.7 million people go—the ones who are now living outside of our country who come into our country legally—under this legislation? They go to find jobs in competition with American workers.

Let's talk about low-skilled, low-wage American workers.

This Congress, as stingy as it has been for low-wage, low-skilled workers, has decided for 8 years it will not increase the minimum wage. Boy, it is Katy bar the door if it comes to helping somebody at the top—tax breaks, unbelievable tax breaks for people at the top.

One of the world's richest people told me the other day when I was talking with him that he pays a lower income tax rate than the receptionist in his office. Why? Because the priority in this Chamber, the priority in this Congress, the priority of the President, is to drive down income tax rates for people who have capital gains. Who has capital gains? The wealthy. They have most of the capital gains. The wealthiest Americans are now paying the lowest tax rates, and this Congress can't be quick enough to see if they can't offer another gift to those at the top of the income scale.

I have nothing at all against those at the top of the income ladder. God bless them, that is what America is about; it is about success. But that does not justify saying that those who are the most successful shall pay the lowest income tax rates in our country, and that is what is happening. At the same time, Congress can't move quickly enough to provide the lowest tax rates to those with the highest incomes. It says to the people with the lowest incomes: We don't have any interest in increasing the minimum wage. Sit there for 8 years, let inflation work against your purchasing power; doesn't matter to us, we don't intend to increase it. I think that is a terrible mistake, but that is the way people at the bottom of the economic ladder have been treated in this country now for many years.

Now they will be treated again to the prospect of saying: Let's have some more people come in; let's not just deal with this 11 to 12 million, let's have more people come in on top of that because we can't find Americans to do that work.

Why can't we find Americans to do that work? Let me read something from Robert Samuelson, a Washington Post editorial. I fully agree with this. He talks about:

> It's a myth that the U.S. economy ''needs'' more poor immigrants.

He is speaking especially of the guest worker provisions.

> The illegal immigrants already here represent only about 4.9 percent of the current labor force, reports the Pew Hispanic Center. In no major occupation are they a majority. . . .
>
> Hardly anyone thinks that most existing illegal immigrants will leave—

Or be rounded up, arrested, or deported. I understand that. I think all of us probably understand that. I think there should be some enforcement of employer sanctions which we created but have not enforced, which would make a big difference with respect to illegal immigration. Here is what Samuelson said:

> In 2004, the median hourly wage in Mexico was $1.86 compared to $9 for Mexicans working in the United States, says Rakesh Kochhar of Pew. With high labor turnover in the jobs they take, most new illegal immigrants can get work by accepting wages slightly below prevailing levels. . . .
>
> But what would happen if new illegal immigration stopped and wasn't replaced by these guest workers?

That is an assumption. First, I don't buy the assumption that even if this bill is passed with legalizing 11 to 12 million immigrants and then allowing up to 4.7 million new people to come in who are now living outside our country, I don't buy the notion that we have plugged the border. I don't think we in any way inhibit illegal immigrants from coming across the border. I know my colleagues are talking about tightening the border and employer sanctions, and I will talk about that in a minute. Employer sanctions was the 1986 Simpson-Mazzoli bill. That was a miserable failure, and I will explain why.

Again quoting Samuelson:

> But what would happen if new illegal immigration stopped and wasn't replaced by guest workers?

At some point higher wages would be going to American workers.

> President Bush says that his guest worker program would ''match willing foreign workers with willing American employers, when no Americans can be found to fill the jobs.'' But at some higher wage, there would be willing Americans.

As long as you can bring illegal immigrants, which is what has been happening, into the country and they can work in the shadows and employers can employ them for submininum wage, I understand why employers would not be employing American workers because they have a steady stream of workers they can employ below the minimum wage.

> Business organizations understandably support guest worker programs. They like cheap labor and ignore the social consequences.

That is what is at work here. What is at work here is the same corporate interests who are exporting good American jobs are supporting this bill because they cannot only export good American jobs on the production side, but for those jobs you can't export, you can import cheap labor. And that is what this is about: Export good jobs and import cheap labor.

Let me talk for a moment about the debate over the Simpson-Mazzoli bill two decades ago at a time when we were told we had a significant immigration problem. That was a bill about border enforcement, strengthening enforcement at the border, and also creating employer sanctions.

The purpose of that bill was to say to employers: Don't you dare hire illegal immigrants; if you are hiring workers who are illegal, you are going to be in trouble, you are going to be slapped with a fine and subject to enforcement actions. So I went back and read the 1985 and 1986 debate about Simpson-Mazzoli. I won't embarrass anybody by reading it on the floor of the Senate. It was fascinating debate in the House and the Senate. This was nirvana. This was the entire solution. It was going to work like a charm because if you say to employers you dare not hire people who are not here legally, you shut down the job, you shut down the magnet, you shut down illegal immigration, end of story.

The fact is it didn't work at all. We have people in my State, the State of North Dakota, today—in fact, I think there is a story in today's paper about illegal immigrants working on some energy plants in the middle of North Dakota, found to be illegal. The question is: Is anybody going to take action against the employer? That would be a Minnesota employer, by the way.

Most of our troubles come from Minnesota. We joke about that.

If a Minnesota employer hires illegal workers, and he is caught, are there any problems for the Minnesota employer? No, no, not even a slap on the wrist; just a pat on the back. Nobody is going to prosecute. Nobody is going to fine them. Nobody is going to take enforcement action. It is exactly why we are in the situation we are in today. There are no sanctions for employers who hire illegal aliens.

I want to say very clearly that I don't in any way, because I oppose this guest worker program that will bring 4.7 million people in to compete with American workers at the bottom of the economic ladder, I don't in any way want to diminish the dignity and self-

worth of immigrants. I don't mean that at all. I know in most cases these are hard-working people, good families. Most of us have come from immigrant families at some point in our lineage. Because someone would come out and say, as I do today, that I don't support this proposal offered by the President and offered on the floor of the Senate, saying not only are we going to legalize or give legal status to 11 or 12 million people who came here illegally, but in addition to that, we are going to allow 400,000 people a year with a 20-percent escalation clause for the 4.7 million additional people potentially in 6 years to come into this country, I am not going to support that. That is a strategy for corporations to provide a ladder of cheap labor coming into this country, displacing American workers.

We have a serious crisis in this country with respect to the plight of America's workers. A lot of people who worked hard all their lives, worked for companies and were proud of it are now discovering their jobs are not safe, their jobs are not secure. In many cases, their jobs are gone—gone to China, gone to Indonesia. Yes, they can find another job. The statistics show they find another job at 20 percent less income. In most cases, they have lost their pensions; they have lost their health care. These are middle-income American workers, and the low-income workers, the people at the bottom of the ladder, the people who are high school dropouts, they work hard, they struggle, and now what they have confronted in recent years is a corporate strategy of being able to hire illegal immigrants at subpar wages, so the jobs are not there for them.

We have a lot of people come to this floor and want to offer amendments. They say they speak for this immigration bill, and they say they speak for immigrants. Again, let me emphasize, I don't want to diminish their concern for immigrant families. I don't want to do that. That is not what I am about. But I want to come to this floor to say a word on behalf of American workers because nobody is coming to this floor to talk about American workers, American jobs, and what it means to our country's future to have good jobs that pay well with retirement benefits and health benefits.

The current strategy we are employing in this country today, a strategy embraced by this President and this Congress, a corporate strategy that says let us export good jobs and import cheap labor, that is a strategy that undermines our economy.

I am interested in the long-term economic health of this country. We have a lot of kids who will grow up in this country, American kids, who want opportunity. Every single set of parents wants to leave a country that is better for their children. They want to leave a country that provides more opportunities for their children, and that is simply not the case these days, regrettably. It is because we have an economic strategy that is off track, and we need to put it on track. I have ideas about how to do that. Others do as well. But one of those ideas would not include suggesting that we ought to displace American workers with 4.7 million additional immigrant workers who now live outside of our country but who will come into our country to assume low-wage jobs and displace jobs for low-wage American workers. That would not be included in my suggestion of how to fix what is wrong in our country.

There is so much to say about this subject. I know there is great passion. I have heard it from all of the groups. I have used a lot of statistics. This is not, after all, about statistics or data. It is about hopes and dreams and aspirations. It is about human misery. It is about living in the shadows. It is about all of those things. So I understand the passion that exists on the floor of this Senate about this matter. But I also, as one Member of this body, lament that there seems to be so little effort and so little activity on this floor about the passions and the hopes and the dreams and the inspiration American workers have about their future.

I have indicated previously, I know we have this global economy and I know part of that global economy plays a role in this immigration debate. People say you are a hopeless xenophobe who doesn't get it. We all see over the horizon, and you somehow are nearsighted. My sense is that we as a country will have our better days ahead of us if we adopt public policy which is thoughtful and, yes, which has as a self-interest the long-term economic well-being of our country.

But this global economy has marched and now galloped forward without adequate rules with respect to jobs and income and opportunity in this country, and too few people seem to care about the diminished circumstances facing most American families and most American workers. That, too, should play a central role in this discussion. That, too, should be a part of the consideration here in the Senate. Regrettably, it has not been. My hope is that perhaps in the next 48 hours it will be, finally.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the majority leader be recognized at 3:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, I take offense at the characterizations of the Democratic leader about obstructing this legislation, particularly from those from southern border States who, in addition to the culpability of the Federal Government, should take the blame for some of the failures of these last few years that have perpetrated these 11 million, 12 million illegal immigrants upon the United States. I respect the comments of the Senator from North Dakota, putting those responsibilities, some of them, on the businesses of Minnesota, but I must say that the businesses of Minnesota and perhaps other Northern States have, to their credit, resisted the imposition of workers from other countries upon themselves—again, to their credit. It is from the States of southern borders, those businesses which have allowed this illegal immigration to go unchecked and which have, I believe to their discredit, employed these individuals.

It surprises me—in fact, I would call it the rank hypocrisy of those who have stood here today representing these States whose businesses have allowed these illegal immigrants to be employed, who have benefited and profited from those employments, and who now are suddenly trying to take aggressive action to impose these sanctions upon all businesses. I believe strongly that Minnesota businesses and others in Northern States have been forced to accept illegal immigrants because of the failure of States on the southern border to stand up and to protect their borders, in addition to the Federal Government. I deeply object to those who are claiming that somehow that is the failure of Northern States such as Minnesota.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that my amendment No. 3232 be called up.

Mr. DAYTON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAMBLISS. Mr. President, I am disappointed that my colleagues across the aisle will not let those of us who have good faith amendments to call them up, debate them, and have a vote on them. This is most troubling

because, while I disagree with many of the provisions in the bill, the border security provisions are absolutely critical. The majority of Americans consider border security to be one of the most important priorities considered by Congress. In holding up the amendment process, the Democrats are holding up the chance to move forward on these critical border security issues. This legislation is too important to fall victim to politics as usual.

As I said, I strongly disagree with this legislation in its current form. I think the provisions relative to agriculture are not in the best interests of farmers and agribusiness people. I can't tell you how many phone calls and letters and emails I have received from my constituents in Georgia as well as from farmers across the Nation voicing their objection to many pieces of the Judiciary Committee bill and encouraging me in my efforts to make some important changes.

So I was astounded to hear the minority leader yesterday suggest that the Judiciary Committee's bill is good enough for him and therefore should be accepted whole hog by the Senate. That is not the way the Senate works. This body is based on the concept of debate. To suggest that this legislation should reflect the will of the 18 members of Judiciary Committee and ignore the will of the full Senate is to belittle the enormous implications that will result from whatever legislation the Senate passes.

I recognize that a number of pending amendments are going to require the Senate to make some difficult votes. But we cannot try to avoid these votes for political expediency. The American people deserve to know where their Senators stand on these critical issues. And every Senator has the right to try to shape this legislation.

The folks on the other side of the aisle need to stop playing politics as usual—which is obstruct, obstruct, obstruct. This bill is too important and their antics are going to prevent us from having a bill that actually means something and isn't just a repeat of the past. Georgians and the American people deserve more than politics as usual—they deserve a thoughtful and thorough debate.

Even though I am not allowed to offer my amendment at this time, I would like to take a few moments to speak about it. And at this point I would like to ask unanimous consent that Senator BROWNBACK be added as a cosponsor to amendment No. 3232.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, the Judiciary substitute bill mandates that the minimum wage that must be paid to workers admitted under the H–2A program shall be the greater of: the applicable state minimum wage, the prevailing wage, or the adverse effect wage rate, often referred to as the AEWR. In almost every case in every State, the AEWR is significantly higher than the local prevailing wage. Interestingly enough, the U.S. Department of Labor does not determine this AEWR. AEWR wages are based solely on a U.S. Department of Agriculture's National Agriculture Statistics Service quarterly survey—a survey that has been published by the Department of Agriculture for decades; a survey that was never intended for the purpose for which the Department of Labor utilizes the collected data.

The AEWR reflects the average wage for disparate field and livestock work over a multistate area. Packing house work—an occupation filled by a large number of H2–A workers—is not surveyed. The NASS survey result is the average of all agricultural wages, including the wages that are paid to workers whose higher production levels entitle them to additional incentives or piecework pay. The U.S. Department of Labor then uses this average wage without regard for differences in occupations, skills and seasonality by turning that average into a minimum guaranteed wage for purposes of the AEWR.

To put this in terms my colleagues can understand, this would be like if you took a survey of all congressional salaries, from Senators and Congressmen to staff assistants, and then took the average of those salaries and mandated that the average wage must be the minimum amount paid to any congressional staffer.

Agricultural employers who use the H–2A program to avoid breaking the law by hiring legal workers are put at a distinct competitive disadvantage when compared to growers who use the available undocumented workforce. In fact, this competitive disadvantage caused by the additional expense of using H–2A is a major factor in the agricultural industry's increasing dependency on an illegal workforce.

Those employers who have been utilizing an illegal workforce have not been paying those illegal workers anywhere near the adverse effect wage rate. Most troubling to me is that in the Judiciary Committee's bill, once agricultural employers transition those illegal workers to blue card workers, there is still no mandated wage floor for them! Therefore, H–2A growers will continue to experience unfair competition if the AEWR is not replaced with local prevailing wages.

I would also like to point out that the wages required of employers of workers admitted under every other temporary, non-immigrant visa category is a local prevailing wage rate determined by the U.S. Department of Labor through specific occupational surveys by the various states.

I believe this should be the case for the H–2A program as well. Moving from an Adverse Effect Wage Rate requirement to a prevailing wage would allow the use of a more localized, occupation-specific, competitive wage when growers access legal workers through the H–2A program. This would naturally raise wages for some farm workers and better reflect the economic realities of the area in which the work is performed and the type of work being performed. It would also encourage agricultural employers to participate in a program designed to protect and identify the workers on our Nation's farms.

I urge you to support the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, I will sound, unfortunately, like a broken record for the next 15 minutes or so.

Mr. CHAMBLISS. I will object to an amendment being called up at this time.

The PRESIDING OFFICER. The Senator from Nebraska has been recognized. The quorum call has been lifted. No other unanimous consent request has been made.

The Senator from Nebraska.

Mr. NELSON of Nebraska. It is important to stress again and again we must focus on border security first.

When I first announced and then introduced my border security bill last fall along with my colleagues, Senator SESSIONS and Senator COBURN, people across America were talking about securing our borders but there wasn't any action.

No bill in Congress was moving because most of the efforts tried to tackle everything and ended up doing nothing.

I proposed changing the way we address immigration reform and introduced a bipartisan bill that focuses on border security first.

Until we secure our borders, the U.S. will never be able to control the deeper problems of illegal immigration. I repeat: without securing our borders first, the U.S. will never be able to deal with its illegal immigration problems.

That is why, I, along with my colleagues Senator SESSIONS, Senator BYRD, and Senator VITTER are offering our bipartisan border security bill as a complete substitute to the bill that Senator SPECTER and the Judiciary Committee have offered.

We all have great respect for Senator SPECTER and the hard work by the Judiciary Committee to complete the bill they reported out last week under difficult time constraints. It is a good thing that we have so many people working together trying to find solutions to our illegal immigration problem. But it is important that those efforts are not lost because we tried to tackle everything and accomplished nothing. Those efforts are why we must focus on border security.

My colleagues and I are convinced that there is only one way we are going

to find consensus and see real action this year, and that is if we take the very important step of securing our borders first.

Our proposal would add 3,000 border patrol agents per year for 5 years and enhance border security technology.

It also adds:

1,000 new investigative personnel dedicated to stopping immigrant smuggling;

10,000 new Department of Homeland Security investigators dedicated to worksite enforcement; and

15,000 immigration enforcement agents dedicated to fraud detection.

At the same time, we give employers the tools they need to confirm the status of prospective employees to ensure that they are following the law.

If the companies have completed the verification process they will be protected in their hiring decisions. And the companies will not need to be concerned with verifying documents nor will they have to be in the business of making sure that documents handed to them are not fraudulent. However, if a company ignores this process and hires illegal immigrants anyway, our proposal enhances the penalties for breaking the law.

We believe that this is an important component for securing our borders and addressing the problem of illegal immigration. By removing the motivation behind most illegal immigration—securing employment through fraudulent documents or unscrupulous employers—we can take another important step towards resolving our illegal immigration problems.

In addition to aiding employers identifying illegal immigrants, this proposal also helps border security agents to stop immigrant smuggling, human trafficking, and other border offenses. This will ensure that gangs, organized crime, and individuals looking to exploit illegal immigrants for profit are prosecuted and prevented from putting immigrants in harms way.

Currently, these offenders are difficult to prosecute and are soon back committing new offenses of the same old crime.

I understand there has been some confusion about who this provision of the Border Security First proposal targets. I would like to set the record straight and make absolutely clear that this section is not aimed at prosecuting any religious or humanitarian groups that assist individuals in need. These people are not prosecuted now nor will they be in the future—nor should they be.

Instead, we need to stop the criminals who are smuggling people for financial gain and commercial profit. They are the ones hurting immigrants, not our religious and nonprofit groups.

I would also like to clarify for the record that this proposal does not make illegal immigrants in this country felons. It merely seeks to secure our borders as a first step towards resolving our illegal immigration problems.

I continue to push for border security first because I believe that it is our responsibility to work together to find a solution to this problem confronting our Nation. Our fellow Americans expect no less from us.

I continue to push for border security first because it makes common sense.

We all agree that the borders need to be secured.

And with a problem as pressing as illegal immigration, it is important that we work to build a consensus and that we concentrate our efforts on getting something accomplished that moves us along the path towards resolving this problem.

The disagreements we face all stem from the additional problem of what to do with the illegal immigrants already here. I am for securing the border first—and then developing a plan for the illegal immigrants already here. We cannot afford to miss this opportunity to begin solving this problem because we concentrated on the things we disagree about rather than working to make sure we accomplished what we all agree needs to be accomplished first.

Unless we secure our borders first, the problem will only continue to worsen and the number of illegal immigrants we need to address will be larger than it is now.

Unless we secure our borders first, the U.S. will never have a firm grasp on the interior problems we have as a result of illegal immigration.

Unless we secure our borders first, we will never be able to adequately address the remaining issues that illegal immigration present.

Unless we secure our borders first, we will miss this opportunity to begin solving a problem and we will have failed to properly do our jobs for the American people.

By implementing tough new changes to secure our borders we can take an important first step toward addressing illegal immigration.

Today as we continue this debate and we continue to think about the bill that is before the Senate, we need to redirect our attention and put border security first so we can then go on. The ''do everything'' bill that is before the Senate today will end up doing nothing. The reason is if it is passed by this Senate and goes to the conference committee, it cannot be squared with the House version that has already been passed. It will be easier to square the circle than it will be to bring these two disparate bills together, and that is why we need to do something to secure our borders first.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I come to the floor, and I am broadly supported by our caucus, because we come to a moment in time where people are looking at the Senate, America is looking at the Senate, and asking: Why? Why are we at a point where we are addressed with a problem that is not insurmountable—seemingly insurmountable at times but a problem which can be addressed, which addresses the issues that are so fundamental to our country—issues of national security, issues of fairness, issues of compassion—challenges that if not addressed will continue to grow, thereby threatening the security of the American people, who are watching.

Republicans are here—we see it right here on the floor right now—and we have been here since last Wednesday on a bill doing what the American people expect; that is, identifying a problem, discussing a problem, putting together amendments in order to take a bill to the floor and, therefore, improve a bill. And yet we are being denied that basic opportunity.

Right this very moment, we are here to address a national problem, a problem that is pressing. It impacts every American listening. I mentioned the word ''fairness'' because it is basically a matter of fairness—of fairness to a group of people, the 12 million undocumented people here in this country today, who, yes, came here illegally, but who are listening and watching right now and asking that question, Will my plight be addressed and addressed appropriately?

It has to do with fairness to the Senate, where each of us came here probably for different reasons, but to participate in governing and moving America forward to a future that we know will be safer, that will be healthier, that will be more prosperous; and fairness for our constituents, who are scratching their heads right now, at first maybe saying, well, there it is, the Senate, once again, not able to address problems, but then, after a moment, saying that is wrong; those are the people who are sent to Washington to represent us, to address the toughest, most fundamental problems that are out there today, and that is our secureness, our security, to address issues that affect internal enforcement of the laws of the land, a nation of laws, and, yes, a nation that has captured the richness of our immigrants.

Twelve million people are living in the shadows. I would argue that today our Democratic colleagues are living in the shadows by not standing up and addressing the problems, the challenges, the opportunities that have been identified. The minority refuses to vote. They refuse to give us simple votes, up-or-down votes, on issues we can debate on the floor, that we are ready to debate.

The other side of the aisle is refusing to govern. That is why we came to the Senate. They refuse to come to the

table to even attempt to address the problem. They are willing to let these 12 million people continue to struggle. They are willing to let our national security, by not addressing the problem, be compromised. They are willing to let our health care, our education, and our immigration system be crippled.

I come to the floor to make the statement that the immigration system is broken, and yet the Democrats today do not have the courage to address the problem, to fix the problem. They show a lack of courage, I think, conviction, and leadership to fix the problem. You fix the problem by doing something, not coming with a solution and saying: This is it; take it or leave it. It is to allow us to have an amendment proposed, to debate that amendment, and then to vote on that amendment.

What happens, then, when we take an issue that is totally nonpartisan—it is not a red State, blue State, liberal, conservative, Democratic or Republican issue—and all of a sudden politics gets injected into it? Thus I ask the other side of the aisle to please put the politics aside and allow this body—100 individuals—to cast votes, take up amendments and vote on them.

There have been a lot of media reports saying that caucuses are fractured—our caucus is fractured and the Democratic caucus is fractured. I think that in many ways can be overplayed, but it does reflect the fact—not the fracturing but the diversity of ideas, good ideas, that need to come to the floor and be debated in order to solve these huge problems that are out there: on the border, first and foremost; interior enforcement at the workplace; the temporary workers, the 12 million people.

We have ideas right here. There are 50 different people with a bunch of ideas, yet not one is being allowed to come to the floor, lay down their amendment, have the manager take up the amendment, debate it, and then vote on that amendment. And we are not going to all agree. That is what the Senate is all about: to debate, to deliberate, to discuss, and then to act.

I think our side has shown our courage to come forth and address a problem. There are not clear-cut answers and not answers everybody is going to agree with. But by working together—not Republican and Democrat, but by working together, each of us operating with our own convictions, allowed to vote with our own convictions, we can move this process forward.

It comes back to fairness again. It is the fairness for each of us. It is the fairness for the 12 million. It is the fairness for the immigrants who want to come to this country, yes, legally so they will have a clearly defined system.

I want to thank the members of my caucus for coming to the table. It is a tough issue, the whole immigration issue. It is a broken system. It demands to be fixed. They are ready to fix it, but right now the other side of the aisle is not allowing us. Without fail, all of our people have come forward with good ideas. We do not all agree with each other—but to work together in a constructive way, bringing out the very best of this body, when, I would argue, over the last 24 hours we have seen the absolute worst.

I do believe the American people deserve better. And again, as I opened, I said the American people have to be scratching their head. Now I used to say this is another insufferable attempt of the other side to block, to obstruct, to postpone, to delay, but now I think it is beyond that.

We know the American people care passionately about this issue. It is time for us to come together—not Republican versus Democrat—and allow these amendments, in an orderly way, determined by the managers, to be debated and voted upon so we can move this country forward, where we know if we act we will be safer, we will give hope where there is no hope today, we will respond with compassion, because I have confidence in the system itself.

Mr. SPECTER. Mr. President, will the distinguished majority leader yield for a question?

Mr. FRIST. I am happy to yield to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, my questions to the majority leader are whether the conduct of the Democrats is consistent with the usual practice of the Senate, which allows Senators to offer, at a minimum, germane amendments to pending legislation, and whether the position taken by the distinguished Democratic leader is consistent with the practices and protocol of the Senate?

His approach was summarized in a news conference yesterday that I spoke about on the Senate floor—I had a minor confrontation with the Democratic leader yesterday—where a question was posed by a reporter. Quote:

Senator REID, the Republicans are saying that you are not allowing amendments to be voted on on the floor. Is there a reason for that?

And Senator REID responded, and I quote:

We are happy to take a look at amendments that don't damage the integrity of the bill, but if it is going to be, in the estimation of the unified Democrats, an effort to denigrate this bipartisan bill, then they won't have votes on those amendments.

My question is, is it up to a Senator or a caucus or a party or the Members on one side of the aisle to take a look at the amendments and decide whether they damage the integrity of the bill and to set a standard that if an amendment is going to be, in the estimation of the unified Democrats, an effort to denigrate this bipartisan bill, then they won't have a vote on that amendment? Or is it the practice and protocol of the Senate to allow Senators to vote for amendments as individual Senators see the situation in their own right?

Mr. FRIST. Mr. President, in response to my colleague and the manager of this bill, it is clear that by protocol, precedent—and I would even take it back to something more basic than that—and simple fairness and respect for individual Members, Members be allowed to come forward and offer their amendments and then, yes, discuss it with the Democratic leader, the Republican leader, and especially the managers of the bill. But to think that the minority party can cherry-pick which amendments will be considered and no other amendments will be considered is totally outside of the realm of both practice, protocol and, again, fairness of the body itself.

Mr. SPECTER. I thank the distinguished majority leader for a very poignant, accurate, conclusive response.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I just hope that my friends on the other side of the aisle—and there isn't a single Senator over there I don't consider a friend and have great respect for—I hope they remember this exchange between the chairman of the Judiciary Committee and the majority leader today, as we wind down this session of this Congress. I want them to remember this because you don't have to have a very long memory to understand what has happened in the Senate with our inability to offer amendments. The most recent that I can think of, of course, was the Dubai Ports situation on lobbying. The next thing I can go back and look at is the PATRIOT Act, where the distinguished majority leader filled the tree.

There is no need—we went through this yesterday. There is no need to do this. But the Senate, in the 200-plus years it has been in existence—even though the rules are somewhat difficult to accept, they are here. And they are here for a reason. Because over the generations of the Senate, there is always the ability to have an endgame. There is a way to proceed orderly on a piece of legislation. And what we should do on this, if everyone is so upset with what is taking place here, is in the morning we will have an opportunity to invoke cloture. All germane amendments will be allowed, if they were filed before 1 o'clock today. There would be an opportunity then to debate these amendments and vote on them. So there is no more orderly way to proceed to a matter than cloture.

I wish to switch a little bit here and talk about something that is extremely personal to me. I have been a legislator for a long time. The first job I had in public office was in 1964. I have been involved in government for 42 years. I was a city attorney, served on county boards, the State legislature, and other such opportunities that the people of the State of Nevada have given me. I don't want this to be true confessions,

but I want to relate to the Senate that the biggest mistake I ever made, the largest error I ever made was 15 or 18 years ago, as a Member of the U.S. Congress, when, with my chief of staff, my dear friend Reynaldo Martinez—he and I played baseball together. He was a star on that team. I wasn't. But we beat everybody. We were the California Scholastic Federation champions when I was a sophomore in high school.

He was my chief of staff. He is retired, a wonderful man. He has credentials in the Hispanic community. He has had a school named after him in Nevada. He has a youth center named after him. He is a very famous Nevadan and my dear friend.

A group of people came and talked to us and convinced us that the thing to do would be to close the borders between Mexico and the United States; in effect, stop people from coming across our borders to the United States. This period of time for which I am so apologetic—to my family, mostly—lasted about a week or two. I introduced legislation. My little wife is 5 feet tall. We have been together for soon to be 50 years. As I said here on the floor a few days ago, her father was born in Russia. He was run out of Russia. His name was Goldfarb, his family. They were Jewish. My wife heard that I had done this. She does not interfere with my legislation. Only when I ask her does she get involved in what I am doing. I didn't ask her about this. She, in effect, said: I can't believe that you have done it. But I had done it.

To compound this, I held a meeting a day or two after being confronted by my wife, a meeting in Las Vegas. It was a townhall meeting to explain this travesty that I called legislation. My friend, Judge John Mendoza, was there, somebody who, when I lost my Senate race in 1974 by 524 votes, spent all night with me consoling me, but he was in that audience. Larry Luna, Larry Mason, Isabelle Pfeiffer, people I had not talked to about this, in addition to my wife, pointed out the errors of my way. I have done everything since that meeting in Las Vegas, in conversation with my wife, to undo my embarrassment.

I have nothing against my friend, the junior Senator from Alabama, for bringing up what I had said those many years ago today on the Senate floor. I have no problem with that at all. But I do want to tell him and the rest of my friends in the Senate, that is a low point of my legislative career, the low point of my governmental career. That is why I believe we need comprehensive immigration reform today. People in America are counting on us to move forward with comprehensive immigration reform. They recognize that this country's national security depends on securing our borders and fixing our immigration system. They all want us to do this, Democrats and Republicans, to come together and do this.

I still believe that the bill before us is a compromise. I believe it is a good bill. It is up to my Republican friends to decide what they want to do. They can work with us to move forward and vote cloture and have some amendments that are germane postcloture. My friends, the majority, can move forward with a bill that will fix our borders and reform the immigration system or continue to stonewall. It is in the eyes of the beholder who is stonewalling. I think what we have here is a compromise. We have a real bipartisan opportunity to fix our immigration system. Thanks to the hard work of the Democrats and Republicans on the Judiciary Committee, we have a bill that will do it.

So I hope that tomorrow morning, an hour after we come into session, that there will be a bipartisan vote to invoke cloture, move forward with this legislation, look at those germane amendments, vote them up or down, and move forward with the process.

I, first of all, want everyone in this Chamber to know that there is no animosity between the two leaders. We have jobs to do. We do the best we can to fulfill those responsibilities. But as far as the two of us are concerned, there is no ill will toward me from Senator FRIST. He has never shown that on a personal basis. I have attempted not to do that with him. I will say on one occasion I did, and he brought it to my attention. I acknowledged that, and I understood what he was critical of. It was constructive criticism, and I took it as that.

I hope we can move forward. There have been proposals made by both sides. My friend's proposal on this side of the aisle was not acceptable. My proposal to him was not acceptable. But it is only 4 o'clock. Maybe something will happen before tomorrow morning's cloture vote.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, as I said in my remarks a few minutes ago, the disappointing thing to me is the situation we are in, in that in all likelihood, unless we have a radical departure in the next hour, the course we are on is to leave here in a few days having accomplished nothing for the American people. The American people expect more.

We all know that the institutions of government in today's world are watched by the American people because we were elected on their behalf to identify problems, to struggle and work through those problems through a process that has worked well for a couple hundred years, and that is debate and amendment. We have a bill on the floor that came out of the Judiciary Committee, a process I am actually proud of.

It has been confusing to people, I know, but I basically said: There is a problem out there that we know is there. It is getting worse. It affects the safety and security of the American people, plus the compassionate side, people dying crossing the borders, plus 12 million people who are having to wake up every day in the shadows out of fear that in some way somebody is going to come and touch them in a devastating way or not being able to report a domestic violence incident because it exposes them. That is wrong.

We have the opportunity—because of leadership, and working with the Democratic leadership, we got a bill to the floor, knowing 3 to 4 months in advance that we would be here now spending time on it—to fix the problem, to solve the problem. And maybe it is the surgical personality in me that says, if somebody in the room has cancer, you cut it out. You just don't sit there and talk to them and say: Come back in a few weeks or a few months or a few years, because they die from not acting and fixing it.

That may be too much my approach, but stepping back from that, I know this is a process here whereby if we start now and take the first amendment from last week, the Kyl amendment, which was introduced and has been discussed and debated, and last night we voted not to table it—why don't we take it and vote on it and go straight through, and then we would have the opportunity to effect a bill. I think we can improve the bill. I think it would get 60 votes for cloture, and then we could have a bill that would solve the problems that are out there.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, it is well known that there are a number of Senators who have been engaged in active negotiations and are trying to come to an agreement so that we could get this very difficult and challenging issue behind us. There are Senators GRAHAM, MARTINEZ, DOMENICI, BROWNBACK, HAGEL, and SPECTER, who led the legislation through the Judiciary Committee, and Senators GREGG, OBAMA, SALAZAR, DURBIN, and especially Senator KENNEDY. We have all been involved in negotiations and discussions morning, noon, and night, as have our staffs, as well as various outside groups. We are always very close to agreement. I cannot say we are going to reach agreement, but it is not for lack of knowledge, expertise, or dedication in trying to solve this issue.

Senator FRIST has encouraged us. We have met with him constantly and he has offered his encouragement as a leader and we are grateful for that. We are close. If we can reach an agreement, I think it would have 60 votes in this body. I haven't seen an issue in recent years that has so much emotion associated with it. Nor do I know of one that probably defines the Republican Party and the Democratic Party and what kind of a nation we are.

The occupant of the chair, Senator MARTINEZ, and Senator SALAZAR brought a perspective to this issue which is very valuable. Both have added life experiences on this issue. So it is not for lack of knowledge or expertise or talent, and we are very close.

But there has been a shadow on our discussions. The fact is the Senate has not moved forward with debate and amendments and votes. The Senate is supposed to do that. That is what this body is supposed to be all about. Now for a week and a half we have not been able to have a vote on a single issue. We should not be afraid to debate these issues and to vote on them. That is what we are supposed to do. We don't have to wait for cloture every time before we debate and have votes. Senator KYL and Senator CORNYN have devoted thousands of hours to this issue. They deserve a vote on their proposal. That is the way the Senate is supposed to function.

There are those on the other side who have amendments that probably would be very tough votes for those of us on this side. We are here to take tough votes. That is what we come here for—to take tough votes. I could argue, as we do maybe too often, legitimately that this is one of the greatest challenges we face in our time—securing our borders, taking 11 million people out of the shadows who are exploited every day, fulfilling the job requirements that we all know are necessary to ensure our economic future.

I want to assure the Democratic leader that those of us on this side follow the leadership of our elected leader. We cannot vote for cloture when it is proposed by the other side. The majority rules. The majority sets the agenda in the Senate. For there to be an expectation that somehow we would vote for cloture as proposed by the Democratic leader—I imagine if my friend from Nevada were in the majority, he could take great exception to the Senator from Tennessee filing cloture and then expecting the other side to follow that.

We have a short period of time. I hope as these negotiations continue—and we are close, I must say. I think my friend from Massachusetts would agree, although I must say he is very interesting to negotiate with. But I also point out that his word is good.

I hope people will listen to the Senator from Florida, who is in the chair. I hope people will listen to the Senator from Colorado, Mr. SALAZAR, and others who can explain to us better than anyone how urgent it is that we resolve this issue. Americans are unhappy with us, in general. But this issue has aroused passion in a way that few of us have ever seen across this country. In Los Angeles, Phoenix, Arizona, and New York City, and around the Nation, it seems to me we owe every American a resolution on this issue.

Can we please move forward with amendments, start voting, and then come to a resolution of this issue. I thank both leaders for their indulgence and my colleagues for their active involvement in this issue.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I am sure it was an oversight by my friend from Arizona in just mentioning Senator SALAZAR, but also Senator MENENDEZ has been involved in the things we have done over here, and he is a great addition to our caucus.

My friend from Arizona, who has established his credentials as being courageous as none of the rest of us have, except perhaps Senator INOUYE, said we should not be afraid to take votes. So my suggestion—I made it yesterday and I make it today—is that there has been significant debate on the Specter-Leahy substitute. It is now before this body. We should not be afraid to vote on that. As I said, we are willing to vote. We don't need to have cloture. We can have an up-or-down vote on that right now. That is one alternative that could be considered.

Mr. FRIST. Mr. President, I think our point has been made. If we are going to address an issue that deserves to be addressed and that the American people expect us to address, we have to change course here from the last several days. It is going to require amendments and debate and allowing amendments to come to the floor. There is no comparable bill. The Medicare bill had 128 amendments; the highway bill had 47; the Energy bill had 70. But to think we can make progress on a bill flying through the Senate without the opportunity for debate and amendment is unrealistic. It is outside of the realm of what the American people expect and what our responsibilities are as Senators.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I so appreciate that the majority leader has called this to the Nation's attention because we have been working on this bill for almost 2 weeks now. The majority of the body has not had its say. The Judiciary Committee worked very hard on this bill. However, it is a bill that I could not possibly invoke cloture on before we have had a chance to have input and the opportunity to change it in the direction that the full majority of this body—hopefully, a resounding majority of the body—would support.

The House of Representatives passed a bill that probably not one Member of the Senate would support. That is not going to be the final position of Congress. The Senate is taking a different approach. The Senate, in general, agrees that there should be a guest worker program. It has been very difficult to come up with the right solution on how our country handles the 12 million people who are here illegally—a solution that is fair and equitable for the citizens of the United States and ensures law and order on our borders. It would be wrong for Congress to pass a bill which indicates border security is business as usual, or that the laws of our country can be broken with no penalty whatsoever. Most of us want to pass a guest worker program that allows people to come back and forth legally into our country, help our economy, earn their benefits and be able to keep them—not in the underground, but aboveboard. Most of us want that.

Unfortunately, the bill before us does not provide the right solution. Yet, we are sincere in our desire to amend it. That is what our leader is trying to say. I think it is wrong for the Democratic minority to hold up amendments and not allow those who have worked for hours, days, weeks, and months on this bill, to offer alternatives, hear debate, and start shaping a bill that would put our country in the right direction, secure our borders, keep our friendship with Mexico—our neighbor to the South, and treat people fairly.

Passing a bill that achieves these objectives is a goal I think we can all reach, but not if we cannot have amendments and are forced to vote on cloture. I could not possibly vote for cloture, nor could all but one or two on our side. That is not bipartisan. It is not the process we have followed in this Senate.

I urge my colleagues on the other side of the aisle to let us proceed with amendments. Don't waste the next 24 hours. Let Senator KYL have his chance to have his amendment voted on. Let others who have ideas have their amendments voted on.

I think one area we have not significantly addressed, one I would like to be able to talk about, is an alternative for people who do not seek citizenship in America. There are many wonderful Mexican workers in our country who want to remain citizens of Mexico, who intend to stay with their families in Mexico, but who desire the economic opportunities in America. Why would we not provide them an opportunity to come out of the shadows, to work and earn their pay in the open, and then go home? Why should they wait in a 10-year line for U.S. citizenship, which they do not seek?

Clearly, we have not fully vetted this issue. The Judiciary Committee worked hard to produce a bill, a bill which I do not support. Yet, they certainly worked hard, did their homework, and were very thorough. We need to have a chance to work on that bill with the rest of the Senate because most of us are not on the Judiciary Committee. Immigration is an issue that affects all of our States and our country as a whole. We need to address it in a sincere, productive way that will come to the right solution. The only way to do that is to allow the Senate to debate and vote on amendments. If we can come to a consensus, and have a 75-to-25 vote, or a 90-to-10 vote on a final bill, then we would have produced the right solution. We will not be able to do that if we invoke cloture before voting on amendments.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DURBIN. Mr. President, I am seeking recognition, standing on the floor.

The PRESIDING OFFICER (Mr. COBURN). The Chair heard the Senator from Kansas first.

Mr. ROBERTS. Mr. President, I tell my friend from Illinois that I will be very brief.

I understand all of the discussion has been about cloture. It has been about the process of the Senate. It has been about denying Members—in this particular case, on our side—the ability to offer amendments. Let me say that we are about to go on a 2-week recess without doing anything about trying to secure our borders. We are doing some things, but we are not doing the things we need to do. There are 32,200 reasons why we should move and why we should reach accommodation, if we possibly can, to pass a good immigration reform bill. That is 32,200 people who will be coming across our borders during the 2 weeks we will be in recess. And 2,300 are coming across per day as of today. There have been about 150 come across our borders illegally while we have been speaking.

As a matter of fact, as chairman of the Senate Select Committee on Intelligence, I know how this affects our national security. I know all the talk has been about procedure and germaneness and allowing amendments. But let me talk a minute about national security.

Mr. President, 1.2 million illegal aliens were apprehended as they came across our borders last year. Two or three times that amount were not apprehended. If you lived in Tucson, the number was about 439,000 who were apprehended. Two or three times that amount were not apprehended. If you lived in Yuma, in California, that number was about 140,000 approximately, and in McAllen, TX, there were 135,000 in just 1 year.

Of the 1.2 million who were apprehended who came across illegally—I am not talking about the ones who came across and were not apprehended—165,000 were persons coming from countries other than Mexico. Where did they come from? We are talking about the Middle East. We are talking about Southeast Asia. We are talking about Eastern Europe. We know because we have apprehended people from Afghanistan, Pakistan, Iraq, and Iran. We have actually apprehended people from Iran, 10 of them, and Somalia and Venezuela.

I want to say something about these folks. Their goals may be to find a job and be part of the American dream, but they may not be as well. And truthfully, I think that is only a snapshot of the reality.

I think the intelligence community can tell you who we caught, but they can't tell you who we haven't caught. So at 2,300 people coming across the border who are illegal every day—every day that we argue or that we don't argue it, that basically we don't have an opportunity to consider the amendments and move this bill forward, national security is being threatened.

I want Members to consider that and see if we can't work toward some solution that will allow a series of amendments to be considered and move on with this bill. Otherwise, in the next 2 weeks, I have to tell my colleagues, the people of Kansas are going to look at me or, for that matter, every Senator and say: What on Earth are you doing going on recess for 2 weeks when you have 32,200 more people coming in, most of whom are not vetted and some could be injurious to the national security of the United States?

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I asked my staff how many amendments have been filed to this bill. The number is 228 amendments; 228 amendments have been filed to this bill. If you follow the proceedings of the Senate, you know there is no way on Earth we can consider 228 amendments and actually vote on this bill by the end of this week or even by the end of next week. It is physically impossible. Decisions will have to be made, as they are made on every single piece of legislation, on which amendments will be cut, which amendments will be considered.

I have had amendments that I thought were extremely important that didn't make the cut. That is the nature of this Chamber. Sometimes we have to step back and say at some point we will have to vote on a bill if we want a bill passed.

Our concern on this side of the aisle is that if we get mired down in the amendment process, we have a fundamental problem. What we are witnessing here you cannot analogize to a baseball game because in a baseball game, there is no clock. In the Senate, there is a clock, not just by day but by week. And at the end of this week, we are scheduled to go on recess.

For that reason, Senator HARRY REID, the Democratic leader of the Senate, filed a cloture motion yesterday. Under the Senate rules, that means that tomorrow morning at about 10 o'clock, we will vote as to whether we want to close off debate, close off the amendment number at 228, or let more amendments pile on.

What is the likelihood that we would consider and pass this bill this week if we allow all amendments to be filed that each Member wishes? There is no chance whatsoever.

What Senator REID believes and I share is that we have a historic opportunity. We may never get this chance again. The last time we had any serious debate about immigration reform was more than a decade ago. Honestly, the situation has gotten worse in this country ever since. Now we have a chance. We have a chance because on a bipartisan basis, the Senate Judiciary Committee produced a bill. It is not perfect, but it is a good bill, strongly supported by Senator KENNEDY on our side and Senator MCCAIN on the other side, supported by Republicans and Democrats who brought it out of the committee 12 to 6.

Our fear is that if we allow this process to mire down with hundreds of amendments, the clock will run out; we will have missed our chance.

It pains me to hear my colleagues on the other side of the aisle say there is no way we can vote for cloture, there is no way we can vote to close down the amendments that are going to be filed here. We have to stand together as a party. I think there is more at stake. I think this bill, this bipartisan bill, is evidence that both parties can come together and must come together if we are going to solve an intractable problem, such as the problem of immigration reform.

America is not going to remember whether we considered 1 amendment, 5 amendments, 10 amendments or 20 amendments. America will not remember whether Senator KYL's amendment was called first or fifth in order. But America will remember with this vote tomorrow who was on the right side of history, who was on that side of history that said we have to move forward to reconcile a serious challenge in this Nation.

The Senator from Kansas talks about security. I am happy to report to him that every bill under consideration dealing with immigration has strong security provisions. There is a provision offered by Senator FRIST to make our borders stronger. Virtually the same provision is being offered on the Democratic side of the aisle in a bipartisan bill. There is no argument about enforcement, strengthening our borders, knowing who is here, where they work, where they live, and what they do. If we are going to be a secure nation, that is essential.

There is no argument about employer enforcement. It has to be part of an enforcement system.

Where we do have differences of opinion, of course, is what to do with 11 or 12 million people already here. We think we have struck the right balance, giving people an opportunity over an 11-year period of time to earn their way to citizenship. If they work hard, if they have a job, if they pay their taxes, if they have had a criminal background check, if they are learning English, if they know about our Nation's history and its civics, if the people who are asking for this clearly are good citizens, people of good moral virtue, those are the ones we want as part of our Nation.

I hear my colleagues on the other side of the aisle say unless we can call one amendment or five amendments before 10 o'clock tomorrow morning, we would as soon see this process stop. That would be unfortunate. Voting for cloture doesn't mean there is an end to amendments. It means there is a limited time for those amendments pending, some 30 hours. We still have time to debate and amend this bill, and we will. But Senator REID and I share in the belief that we need a process that brings this to a conclusion. There is no way we can deal with 228 amendments and have this bill completed this week. That is why we moved forward on this effort to try to file cloture on a bipartisan basis and move this bill to final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, first, I thank our majority leader for coming to the floor and pointing out what is happening because I think this is a miscarriage of justice, very unfair, and is an indication of what is fundamentally wrong with the Senate these days. It is important that in the light of day, the American people be told why immigration reform, on which the American people feel very strongly we should act and I believe they feel we should put great focus on border security, is long overdue.

We made runs on it in the past. I was around when we passed immigration reform, by title at least, in 1986 and again in 1996. It didn't work. We have to do more for border security. We have to decide if we want a temporary worker program, how is it going to be assigned, what are the responsibilities for it to be implemented, and exactly how are we going to deal with, again, 11 and 12 million people who are in this country.

Frankly, I have very little to say on this subject because I am not a member of the Judiciary Committee. I do not consider myself an authority, an expert on the substance, as is my colleague from Arizona, Senator KYL. He worked on it. He is on the Judiciary Committee. They discussed it, considered it for weeks and months. I have a lot of respect for the work that was done in the committee.

I have been proud that our majority leader, Senator FRIST, has forced this issue to a head. Some people have said: Wait a minute, we are not ready, we haven't had time to cook this issue; there are too many problems. We should have done this last year, and our leader has been saying since January this issue must be addressed. It is overdue, and it is going to be addressed. And, frankly, he told us when it was coming up—last week. He forced an action in the Judiciary Committee. Maybe it was a forced action, but it was time we acted.

I have made the point in a variety of forums in the last couple of days that this is what the Senate ought to be doing. This is a big, important, difficult issue. The American people expect us to act instead of sweeping around the edges on salami issues and all kinds of other issues. This is a big issue. This is an important issue. This is about who we are and who we are going to be.

Thank goodness the Senate is living up to the expectations our forefathers had for us: to take up a tough issue, have a debate, have amendments, and have votes. And all of a sudden people say: Oh, we can't have votes; we can't vote on amendments on both sides of the aisles. Senators are saying: I don't want to have to cast a tough vote. Hallelujah, finally we are going to do something that matters around here.

Will we get it right? I don't know. I have been trying to listen to both sides of the debate. I want action. I hope it is the right one. But we are never going to know until we go forward and consider this issue and get it done in a responsible way.

If forced to vote on the bill that came out of the committee right now, I would vote against it. I don't think we have found a third way. I don't think we have found the sweet spot. I think we have to have more responsibility.

Illegal aliens are illegal. This is a very difficult, sensitive problem. We have to think about it. But I don't think we can say: OK, gee, say you're sorry and pay a fine and everything will be OK. It has to be more serious than that.

I was looking forward to amendments. Some people will say: Oh, vote for cloture, let's get this over with; there are too many amendments. We haven't voted on one amendment. We have been dragging around here for over a week now. Senator KYL has tried every way in the world to get a vote, and the minority in the Senate is blocking even a vote on a critical amendment by a senior Senator in the leadership of the majority, I might add, because they don't want to vote.

Frankly, for floor people, I note there are some ways this issue can be stuffed down the opposition's throat. I don't want to do that. I thought we were going to rise to the occasion and have a bipartisan debate.

This is the Senate. This is not the House. And, by the way, I have been a party to stuffing the minority, and people didn't agree with me. I filled up the tree. I filed cloture instantly on bills and on amendments. But almost every way, almost every time it backfired on me. I admit it now. I remember filling up the tree and blocking Senator MCCAIN from offering his amendment on campaign finance reform. I did it more than once. I told him I was going to do it. In the end, he won.

This tactic that has been employed by the Democratic leadership blocking even a vote on amendments on an issue of this magnitude is outrageous and, quite frankly, I am offended cloture has been filed by the minority leader. It is not unprecedented. It has been done 18 times in the last 10 years. Yes, I did it, too, and again, it doesn't add to anything. It destroys the potential for good will.

I will vote against any cloture motion filed by the minority leader. He does not manage the Senate. The majority leader does. And even when I disagree with him—I admire Senator MCCAIN standing up and saying: I am not going to support that. Senator MCCAIN has the high hand, he has the winning hand probably, but he said: Wait a minute, you can't block Senators from even having a vote on their amendments, even though he is going to vote against them and speak against them.

What have we done here? This approach cannot stand, it will not stand, and what I am going to urge our leadership to consider doing is if we don't get something worked out by sunrise, then the Senate Democrats are going to be cut out. There is a way we can get an agreement between the Republicans in the House and the Senate, the majority in the House and the Senate, and force it to the floor whole-hog and say: Vote for it, up or down. It can be done. I don't want to do that. I object to that. But when David Broder writes these articles about how he can't understand why the majority doesn't work with the minority, hey, Mr. Broder, take a look at the Senate today. This is the kind of conduct which makes it impossible for us to get our work done and makes the majority decide to just ignore the minority.

I am one of those people whose votes hang in the balance. I am not locked into a position. I probably am willing to go further toward what the Judiciary Committee did than some of my colleagues. But I am offended by this, and it may affect my overall vote on the final product.

This bill has the potential to be bipartisan. It has the potential to be a major achievement by the Senate and by the Congress and, more importantly, for the American people. I hope our leadership will say: Oh well, maybe we just didn't talk enough to each other, and let's work this out. Let's go forward. We are not going to be able to finish this legislation this week. So what. Take next week. Take next month. This issue is too big, too important. The illegal alien problem we have in this country—and the need for immigration reform—is doing serious damage to our country. There are good aspects to the bill, but there is damage being done and the relationship between people is not moving in a positive way. This is where we show whether we are statesmen or political hacks who are just trying to find a way to avoid a tough vote.

I plead with my colleagues: Let's find a way to go forward on this and get a solution we can all vote for and feel good about. Right now, we should be ashamed of what we are doing and the way we look.

I yield the floor.

Mr. KENNEDY. Mr. President, I would like to take a few moments of the Senate's time to try to put this legislation at least into some perspective, as someone who has worked on legislation dealing with immigration for some period of time, so the American people can have an understanding of what this debate is really all about.

I think all of us understand what has been well stated here, and that is our borders are broken and porous. Ten years ago, we estimated that about 40,000 were coming into this country illegally and we were catching maybe almost half of them. Now the estimates are from 400,000 to over 1 million, and we are catching 5 or 10 percent of them. We have increased expenditures by $20 billion in terms of law enforcement and building fences and increasing border

guards 300 percent over the period of the last 10 years, and it doesn't work. It has not worked, and it is not working today. Although there are a number of our colleagues who believe it offers the best way to try to get a handle on our borders.

That was the position which was taken by the House of Representatives and passed by the House of Representatives, effectively criminalizing every individual who is undocumented here in the United States and criminalizing any individual who might have been indirectly helping that person, whether it was a minister, a member of the clergy, or a nonprofit organization such as a humane group that operates in a feeding program or looks after people who have been in shelters. That is why Bishop Mahony, the cardinal of Los Angeles, said that the House legislation was such a vicious piece of legislation. Those aren't my words; those are his. That was the position of the House of Representatives. Many of us who have worked on immigration issues believe that is not the answer.

The fact is, it was the majority leader who introduced similar legislation in the Senate of the United States which to many of us represented the position of the Republican Party. That was the position which was introduced by the majority leader. There wasn't a great deal of turmoil or opposition at the time he did that, so that was why many thought that was going to be the position of the Republican Party. That is at least one aspect of this debate and discussion.

Another aspect of it: Some 3½ years ago, the Senator from Arizona, Mr. MCCAIN, introduced legislation dealing with immigration in a more comprehensive way—rather than just law enforcement, looked at other factors in addition to law enforcement. Over 3 years ago, I introduced legislation that looked at a number of different aspects in terms of legalization and other kinds of approaches but different from those of Senator MCCAIN. At about that time, Senator HAGEL and Senator Daschle introduced different legislation. This was all before the 2004 election.

Then, after the election, when we saw that these different pieces of legislation which were introduced were not working, Senator MCCAIN and I worked together and in May of 2005 introduced common legislation. We were convinced of a number of things. We were convinced, first of all, about the importance of securing our borders from a national security point of view. You have all these individuals who are coming in here, and in the wake of 9/11, we don't know who they are, and this presents a national security issue. If you have millions of immigrants who are virtually underground because they are undocumented, this is a national security issue. When we find out that Homeland Security is worried about different cells in different parts of the country, and we know we have millions of immigrants who are subject to exploitation because they are undocumented, this is a national security issue.

So we looked at it and said: What are the features that are going to be necessary to deal with national security, because that is very important, and to deal with the fact that there is this magnet, drawing people to the United States, the magnet of the American economy so that strong individuals who want to provide for their families, work hard, play by the rules, and provide for their families are offered jobs by American employers? So they come here and send money back to look after their children and families, to develop a community. Many hard-working individuals have come, and many of them have enlisted in the Armed Forces of our country. More than 70,000 are serving in the Armed Forces of our country. Permanent resident aliens are in the Armed Forces serving in Iraq and Afghanistan.

So we said: What is necessary is we have to bring these people out of the shadows. How are we going to do that? We have to entice them out so they feel they can be a part of our American system, and how is that going to happen? Since they cut in front of this line instead of waiting their turn, if they were to follow the immigration laws, we would say: You have to go to the back of the line. You have to go to the back of the line. You have to wait until that line is cleared up. You have to pay a fine, pay your taxes, abide by the laws of this country, work hard, and then, 11 years from now—11 years from now—you will be eligible to become an American citizen. The other side says: We can't do that because that is amnesty. That is amnesty.

It is very interesting that whenever we talk about the undocumented, in many instances men and women who work hard, who are trying to provide for their families, who are devoted to their religion—98 percent of the undocumented are working today. Working. These are qualities which we admire—people who work hard, provide for their families, have beliefs in their God, are attentive to their church, care for their children—all qualities we admire. But that is too bad; we are just going to send them back or criminalize them. We are going to send them back.

So we have a difference here in the Senate. We have an agreement that we have to get a border and it has to be secure. We have the undocumented, and the question is, How are we going to deal with them? And we have differences in this body. Many say we have to send them back. We heard speeches even earlier today saying that we can't permit, under any circumstances, that they remain here in this country. There has been no talk about how they are going to do it. Of the 240 amendments that are before us, I didn't see any asking for $240 billion to get the buses out there to ship them back, while their children, who are American citizens, are pleading that they remain here, and their children are going to school and want their parents to stay. No, no. Let's just get a bumper-sticker solution and call it amnesty. Bumper sticker: It Is Amnesty. Bumper sticker: Bad. It is just a bumper-sticker solution, rather than dealing with a complex issue.

So Senator MCCAIN and I worked on this issue. We worked out the program, the penalties, the requirements for people who are here to be able to earn their way toward the possibility of citizenship, bring them out of the shadows, treat them in a humane way, understanding that we have a problem and an issue. And as much as those on the other side of the aisle might bellyache about this solution, they don't have any answer, other than criminalizing it. That is the answer they have: criminalizing. So we have what I consider a just solution. It may not be the right one, it may not be, but at least it is—I believe and the majority of the American people believe that earning your way to be a citizen in this country is an acceptable way to treat these individuals.

So then the issue is, we have a magnet here in the United States. Now we are talking about the border. How are we going to lessen the pressure on the border? There are a number of things in our bill. One is that we want to try to cooperate with Mexico, the countries of Central America, in terms of trying to work out more effective ways and means of being able to do it. There are a variety of different ways. The Mexican Government has indicated that. I think there are a variety of different ways of trying to do that to lessen the pressure. We have basically the only proposal that gives any consideration to that whatsoever, and I think it can be extremely meaningful.

We find the remittances, as they go back to Mexico, to many of these communities. So many of the people who are here remit funds because they care about their families and their communities. We could work with Mexico to lessen the pressure.

Nonetheless, we understand that we are still going to be a magnet. So we say: OK, let's set a figure. We had a negotiation, and 400,000 was the figure for temporary workers. After 4 years, they have an opportunity to petition for a green card and after 5 more years—to become 9 years—to be able to become American citizens if they demonstrate they have worked hard, paid their taxes, haven't run into trouble with the law.

So we are saying we want to make the borders secure in terms of the security issues, and we want to make it safe for people to come here, and we want to have a process so that the magnet which is the American economy will draw people in an orderly way—not to replace American jobs but to advertise and see if there are Americans available. But if they are jobs Americans won't do, there will be a

legal way for people to come in. So the person who is down in the center part of Mexico will have an alternative: Do you want to risk going across the desert and dying in the desert, or do you want to go to your embassy and find out if there is a job for which you are qualified and go to the United States and have at least some job protection in the job you have? That is the alternative. Legality. Legality. Legality in gaining entrance, not illegal across the border, earning the legal position by earning your legalization.

Then we have the enforcement provisions. In the United States, if employers are going to hire undocumented aliens, then we have 5,000 individuals who are going to be trained and equipped to be able to go after employers who are going to attempt to violate the law. The temporary worker gets the biometric card, comes up and presents it to the employer, and then we know he or she is documented. If not, then we know he is undocumented, and then that person is going to be subject to penalties. It has never been tried before, but it is a local process and a legal system.

What many of us are saying here tonight is we have a total package that talks about the border, talks about the temporary worker, talks about law enforcement, and talks about earned legalization. That is the package. That is the package that came out of the Judiciary Committee 12 to 6. Not bits and pieces, not just border security like the Republican leader had or like the House of Representatives had. It garnered 12 members of the Judiciary Committee, Republicans and Democrats alike, in a bipartisan way, after 7 days of hearings, 6 days of markups, and scores of different amendments. What Senator REID is talking about is why not let us have a vote on that particular approach to the challenge that we are facing on immigration? There are those who just want law enforcement—fine. But why is it that those who worked, and worked hard, and looked at this and studied it, and studied hard, and after days of hearings and a lot of work—why should we be denied the opportunity to have a vote on the total package?

That is what we are being asked. We are being asked: Let's split that package up somewhat. Let's try to divert it.

I know there are those strongly opposed to it. I respect them. I have heard them. I listened to them. They are on our committee and strongly oppose it. I strongly respect that. But aren't we entitled to at least a chance to have a vote on a comprehensive approach? What is so difficult about it? I agree with the Senator from Mississippi, this is important. We ought to be continuing on this issue. It is of vital importance and consequence. It affects the lives of hundreds of thousands, millions of people. We have seen what is out there, across the country—500,000 people in southern California, 100,000 people in Chicago. You are going to see next Monday in 10 different cities, more than a million individuals who are out there demonstrating.

Why are we not dealing with this? Why don't we deal with it? What many of us are asking, including myself, is give us at least the opportunity to vote on that. If that is not successful, if we cannot get the majority here, then so be it. We have to find a different approach.

We talk about trying to work through these accommodations. I am always interested in listening to individuals, people who are concerned about this. We have had, as I mentioned, early in this debate, the extraordinary stories from our friend and colleague, the Senator from New Mexico, Mr. DOMENICI, telling his life story—the absolutely extraordinary story of his parents. We listened to the good Senator from Florida, MEL MARTINEZ, talk about this. I listened to my colleagues. KEN SALAZAR'S relatives were here 250 years before any of our ancestors were here, down in the Southwest and out in Colorado. We listened to BOB MENENDEZ as well. We listened to our other colleagues who have been engaged in this. They understand its difficulty and its complexity.

We do have a recommendation from our committee. It seems that in the life of this institution we ought to be able to have a vote on that particular proposal. If it does not carry, then we will have to deal with the other reality. But to deny us the opportunity to get that as well as consider other amendments, as the Senator from Illinois pointed out, that will be relevant and current tomorrow, after cloture—I think would be an enormous loss.

I certainly have worked and I am glad to work to reduce the differences among views and opinions. I think all of us are going through the learning experience. As much as we know about immigration, we always learn more from talking with people who are concerned and interested and knowledgeable about these issues. The legislative process is an evolving process. I have certainly observed that over an extensive period of time. So we are always interested.

If there are ways we can achieve the outlines that we talked about, at least from my point of view then it makes sense. What does not make sense is to try to separate different groups against each other. That I find difficult to accept. We cannot have one group that has been here for a lengthy period of time, another group that has been here almost as long, and have them treated in different ways. That doesn't really solve the problem. It might help some people in terms of how they are going to vote on a particular issue, but it really is not dealing with the substance. We are interested in dealing with the substance, not just getting safe political positions for our colleagues. We want to get this legislation done.

We certainly want to try to find common ground, right up until the very end. I will certainly work in any way I can. I know others are thinking and working hard on it. As has been pointed out by every speaker, this is too important a piece of legislation to let it slip by. It is too important.

I am proud of the proposal that is before the Senate. I think it is the result of a great deal of thought and examination by a variety of our different colleagues from all parts of the country and with all different kinds of constituents. When you get an issue that is as volatile as this, and you have a 12 to 6 vote and you have that kind of bipartisanship in this, recognize those of us who support this proposal understand it is a total kind of approach to the challenge. The single-shot approaches have not worked. Let's just try, here in the United States Senate, to give an opportunity for this comprehensive approach, which is meaningful in terms of our national security, is enormously important in terms of economic progress, and most important is a reflection of our humanitarian values. Let's give that a chance. That is what we are hoping, and I hope the Senate will give us that opportunity to do so.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, before the Senator from Massachusetts leaves the floor, I wonder if I might ask him a question—if he would be kind enough just to respond to this, I hope.

The Senator from Massachusetts was one of the prime participants in our Judiciary Committee markup and meetings. He was on the prevailing side of the vote which passed out the bill which we are now debating.

I inform the Senator, by the way, it was my recommendation at the leadership meeting that rather than the leader's bill, the Senate judiciary bill be the underlying bill.

The question I wanted to ask the Senator is this: The Senator is aware of the Cornyn-Kyl bill, which to some extent is a competitor of the bill that passed. That was rejected in the Judiciary Committee; that is to say, we lost that vote.

The Senator was talking a moment ago about alternatives in the Senate, I believe. I don't think he would want to be misunderstood in this regard. He said there is no answer but to criminalize them. I know the Senator—I presume the Senator did not mean that in the Senate there has been nothing proposed except to criminalize the people who are here illegally because the Senator, of course, is aware of the alternative legislation Senator CORNYN and I introduced.

Would the Senator at all like to comment on that?

Mr. KENNEDY. The remarks that I had were directed toward the undocumented. The Senator from Arizona has an amendment that is portrayed as only preventing the adjustment status for criminals, but if you look and examine the various provisions which are included in the Senator's amendment,

they also include the status offenders which effectively would be denied any opportunity for the benefits of this legislation.

In the provisions included in the legislation—I haven't got the amendment right before me, but there are three or four different items that would do so. That, I think, goes to the heart of this whole process because effectively, if the Cornyn-Kyl amendment is adopted, it effectively takes out 60 percent, as I understand it, of those who are undocumented from any kind of adjustment of status.

I have listened to the Senator debate this. That is certainly my understanding and the understanding of others who studied it carefully, and that would leave the individuals in the kind of state they are today, where they would have an illegality in their current status and would continue to be subject to the kinds of exploitation which is happening now and continue to depress wages on other workers. I believe that would really strike at the heart of the legislation. I know the Senator does not agree with me on that.

Mr. KYL. Mr. President, if I could just ask the Senator from Massachusetts, I was not referring to the amendment which is pending on the floor of the Senate. I was referring to the Cornyn-Kyl bill, which is a comprehensive immigration reform bill that deals with enforcement at the border, enforcement at the worksite, a temporary worker program, a way to deal with the illegal immigrants different in ways from the bill that passed the Judiciary Committee but nonetheless is a comprehensive reform bill which was voted down. But it does represent an alternative on which we would like to have a vote on the Senate floor.

I wanted to give the Senator an opportunity to acknowledge that in the Senate there are alternatives to criminalizing the illegal immigrants—if he wanted to?

Mr. KENNEDY. I thought at the beginning of the Senator's comments he was referring to the amendment——

Mr. KYL. There was a misunderstanding.

Mr. KENNEDY. As the Senator notes, the House bill had the criminalization. The Frist bill had the criminalization issues. The Cornyn-Kyl does not have that particular provision. I do think when we voted on that issue, on the Durbin amendment, I think the Senator voted against the Durbin amendment, if I am correct, which was to decriminalize. So I don't quite know what the Senator's position is on the issue, but I stand corrected.

I was mentioning the House bill and the Senate majority leader's bill.

Mr. KYL. I thank the Senator from Massachusetts. In the debate and characterization of things, sometimes we make a characterization and it might be subject to misinterpretation. It may well not have been, but in any event, I appreciate the Senator's clarification.

I want to respond to several things that have been said here—first of all, to join the majority leader and the others who have spoken to the issue of the need for a debate and the ability to offer amendments and to vote on those amendments as a part of this very important legislative effort. I don't know that we will do anything more important this year than try to adopt comprehensive immigration reform. It is critical to my State. There are an awful lot of people in the State of Arizona illegally who do not enjoy the protection of the law, and should. Simply because they came here illegally, they should not be denied that protection. We need to find a way to ensure that in some way the status of everyone who works in and remains in the United States is in a legal status. It is also critical that we secure the border and provide an enforcement mechanism to ensure that people who work here work here legally.

Let me divide my remarks in two pieces, if I could, first of all, to respond to something the Senator from Illinois, the minority whip, had to say when he was here. He noted there are about 200 amendments that have been filed. His point was it is hard to figure out which ones to consider.

My point is this. If anything is certain, it is that if you do not start, you don't consider any of them. It is always the case that there are more amendments filed than are considered. But at least we start the process at the beginning of the debate. I laid down an amendment last Thursday afternoon. It is the pending amendment. This is Wednesday afternoon. Tomorrow it will be pending an entire week. It was the first amendment laid down. The other 199 followed it. We have not even gotten a vote on amendment No. 1 yet.

To complain that there are 200 amendments out there and we just don't know where to start and it has been a whole week and we can't figure out where to start and that is why we are stopping you from voting on any of them doesn't wash. Let's be very clear. The reason the Democratic side has prevented us from offering amendments and from voting on amendments is because they don't want to vote on them—period. It is not that there are so many they can't figure out which ones to allow a vote. They don't want to vote on them.

Why? There are two reasons. The first is they like the bill as it is. That is a perfectly legitimate point. But that is always the case with one side or the other. But whichever side doesn't like the bill gets a chance to try to amend it. If the majority is right, that they have the votes, they can vote these amendments down.

Senator KENNEDY just spoke to the amendment that is pending. He obviously does not think it is a good amendment. He is going to vote against it. I think it is a real good amendment and it goes right to a point of the bill that is pending before us: should criminals be allowed to participate in the benefits of this legislation? I say no.

That is an amendment that people do not want to vote on. I guess that is the other thing. Not only do a lot of folks on the other side like the bill as it is, and therefore they don't want to see it changed—although that is not really a good reason for denying us a right to offer amendments—but I don't think they want to take a vote on some of these amendments perhaps because it is somewhat embarrassing.

I am willing to concede that there are lots of drafting errors. I have made some including on this bill. So it is not always the way you want it to be. But including crimes of moral turpitude and drug crimes—whoever drafted the bill on the other side—they felt they had cut out criminals from participating in the program. The problem is, there are a lot of crimes besides drug crimes and crimes of moral turpitude. I read that list. I think it would be better to simply say we agree that we didn't mean for criminals to participate, and either table the amendment or again vote for it or vote against it, whatever. But we could have had that done with a long time ago. Instead we have spent a day debating on whether to vote on the amendment.

As I said before, with all these 200 amendments you are never going to get any of them done if you do not start. The Democratic side has prevented us from starting. As the majority leader said, that is not acceptable. And for the minority leader to file cloture to cut off debate and cut off the filing of any other amendments, that adds insult to injury because then it says not only can't you debate this bill or amendments that are offered, but there can't be any other amendments offered.

There is talk about some kind of compromise. Clearly, if a new amendment is offered there should be an opportunity to respond to that in some way, including potentially offering an amendment to it. It is very difficult because of the complexity of this bill to ensure that any amendment is germane. That is a term of art which you will hear in this body, but that is all you can do after cloture is invoked, and it is hard to do that. It is no simple proposition to say let's close off debate and finish the bill, whatever is germane. That is very difficult to do. Choking off debate with a cloture motion is done to stop filibusters. There hasn't been a filibuster. We would like to get a bill. We would like to have debate and vote on amendments and vote on a bill.

Most of us in this body want comprehensive immigration reform.

The reason I engaged in the colloquy with the Senator from Massachusetts is because we have two competing versions. His version passed in the Judiciary Committee; mine did not. Both are comprehensive. They both deal with border security, with security in the entire area of the country, including at the workplace with a temporary

work program and with providing a new status for the people who are here illegally. They do that in different ways, but they both tackle the same comprehensive issue.

It is a straw man that anybody on this side doesn't want a bill.

It is also wrong to say that we can't start voting because we just do not know where to start. The reality is, we could have started and we should have started and this bill is not going to be completed until we start.

There were a couple of things that the Senator from Massachusetts said that I want to clarify. One is there is quite a bit of derogation with the House position. While there are some things in the House bill that I agree with and others that I disagree with, I must say this is a very different picture of what the House stands for and what Republicans stand for than what has been portrayed.

For example, I think there are probably many out there who believe the House bill stands for the proposition that we need to make it a felony for people to be in this country illegally. And since the House is controlled by Republicans, that must be the Republican position. Nothing could be further from the truth. I don't know of a Republican Senator, No. 1, who wants to have it a felony for a status violation of the immigration law or for crossing the border illegally.

What happened in the House of Representatives? Representative SENSENBRENNER, chairman of the Judiciary Committee, said we need to take that felony status and change it to a misdemeanor. So a vote was taken. On that vote there were 164 ayes and 257 nays. The vote lost. So it remained a felony.

Who voted against the amendment to make it a misdemeanor? Mr. President, 191 of the 202 Democrats voted against the amendment to turn the felony to a misdemeanor; 191 of the 202 Democrats voted to leave it a felony. The majority of Republicans voted to make it a misdemeanor.

Let us stop denigrating the House of Representatives, and in particular the Republicans, by somehow contending that either Republicans, or the majority of the House Members who are Republicans, wanted this to be a felony. It was the Democratic Members of the House of Representatives who voted to keep it a felony. The majority of Republicans voted to make it a misdemeanor.

We need to clear up some of the impressions that have been created around here because of very sloppy language. I will put it that way so I don't ascribe any bad motive to anyone.

Part of that impression could have been created. That is what I was trying to correct with the Senator from Massachusetts a moment ago when he said that the alternative was to round them up and send them back and that there was no answer but to criminalize them. I appreciated what the Senator said because the Senate does not have a bill to criminalize the status of aliens, certainly not to make them felonies. And no one I know of has proposed an alternative to round them up and send them back. Everyone has agreed. I shouldn't say everyone because there are people who believe it is possible to somehow force all of the illegal immigrants to be returned to their country of origin. I think that is a very unrealistic option and that, therefore, it would not be appropriate to round up everybody and send them back. That is a false choice. There isn't a bill on the floor of the Senate today that does that.

Why are these false choices presented as the only alternative to the bill that is before us on the floor? As I pointed out, there are several other choices. One was introduced by Senator CORNYN and myself, a comprehensive bill that doesn't round up everybody and send them back but criminalizes everyone.

I think to engage in this debate we should engage with reason and without mischaracterizing things. There are good enough reasons to oppose each other's bill without mischaracterizing them. If I have ever mischaracterized anything—I hope I haven't—I apologize for it.

The Senator from Massachusetts said something else that is very important. He said it was a necessity to have an incentive for illegal aliens to come out of the shadows, and the bill that he and others had crafted provided this potential for citizenship to provide that incentive.

That is one approach. I disagree with it. But that is certainly an approach. But it is not the only approach.

I want to go back to what most people have said about the people who are here illegally to illustrate a point. Most folks say they just came here to do work that Americans won't do. Let me stipulate that many—in fact, the majority—of the people did come here to work. There is no question about that. Let us not forget that between 10 and 15 percent of the people who are apprehended when they come here by crossing the border illegally are criminals. These are bad people. They don't just come here to work. They come here for illicit purposes. They are criminals and they need to be dealt with as criminals. That is between 10 and 15 percent.

But there is another 85 to 90 percent who undoubtedly come here primarily to work, to earn money, mostly to send back to friends or relatives in their home country. So let us stipulate to that.

Most of them did not come here to become citizens of the United States. As a matter of fact, Senator HUTCHISON pointed out something which is very true. If you know one thing about Mexican citizens, it is that they are very proud. They have a beautiful country. It is actually a wealthy country. Their culture is a tremendous culture and they are very proud of it. They are very patriotic and nationalistic.

I think it is a bit odd that we—not me but many here—just assume that they all want to be citizens of the United States. Many want the ability to be here permanently, to reside here and to work here permanently, if that is their choice and they have green cards for that reason. Many other people from other parts of the world have green cards but don't choose to become citizens. That is fine. But we shouldn't presume that everyone wants to be a citizen simply because they came here to work.

The other fallacy is they came here to do work that Americans won't do. I think you have to amend that slightly to say that they came here to do work that Americans won't do at the price that people from other countries are willing to do it for.

In fact, there is a lot of work that Americans are willing to do, if the work is there, that people from foreign countries are doing today side by side. I mention the construction industry as a good example because in my State of Arizona it is hard to get enough good construction workers. There are many thousands, tens of thousands or more, working in construction that are illegal. I would quickly grant them temporary permits to work in the United States in construction. We need their help. But I also know that in the field of construction there have been many times when a very well-qualified American citizen construction worker can't find a job. It is very cyclical employment.

What we don't want to do is assume that all of the people who came here from another country came here to do jobs that Americans won't do and, therefore, there will always be a job for them because Americans will never do the work. Americans will do this kind of work. They will do it gladly. They don't want to do it for free. They do not want to do it too cheaply. But there aren't very many jobs that they will do for a pretty cheap price. If the jobs aren't there, obviously the reason we have a temporary program is to issue a temporary permit while the job is there, and when the work returns you can start issuing more temporary permits.

One of the problems with the underlying bill is you convert all the temporary permits into permanent legal residency and then you have no ability to ask anyone who is a guest here to leave because they have a right to stay here permanently even though there is no job for them some years in the future.

The point is, it is true that you need an incentive for illegal immigrants to participate in a legal program. All of the bills have different kinds of legal programs. The Cornyn-Kyl bill has one; the bill on the floor has one. We provide a lot of incentives and some disincentives. You can stay for up to 5 years under our bill. Nobody is rounded up and deported. You can stay for 5 years.

One reason that number was fixed was because the survey of over 35,000 Mexican citizens who are illegal immigrants said if they could stay for 5 years and participate in the guest worker program, 71 percent of them said they would then return home. I don't know that they all would. I think it is totally wrong to assume they all won't. There is an incentive to stay here for 5 years. You can also participate in a temporary work program when you go home. The sooner you go home the longer you can participate in that program. You can build a nest egg and take that back with you when you leave.

There are incentives in our bill as well. It may not be the incentive of citizenship. I don't think you have to have that incentive in order to, as the phrase goes, bring people out of the shadows.

Different people can argue about this. Reasonable people can differ about all of these things. I am willing to listen to the debate on the other side. But I would ask a favor in return. Just as we allowed the bill to be passed out of the Judiciary Committee, as the Presiding Officer is well aware—and we didn't filibuster the bill there, though it could have been filibustered—we allowed it to pass out knowing that it would pass over our votes. We had an alternative. It didn't have the votes to pass. We would like an opportunity to vote on that alternative on the floor of the Senate. Is that too much to ask?

We would like an opportunity to vote on about five amendments.

I am speaking now for Senator CORNYN and myself. That is all. We boiled it down to just five along with our underlying amendment. I would like the opportunity to do that.

When we debated the energy bill, I think the comment was there were over 70 amendments, and these were significant amendments. This isn't like the amendments to the budget bill. I think there have been two relatively insignificant—well, one good—I won't characterize them. There have been two amendments voted on. The authors, I am sure, thought they were all significant.

But the bottom line is nothing has gone to the heart of the bill one way or the other until that debate occurs and until those amendments are allowed to be offered and until they are allowed to be voted on. It is unfair to think that we could just shut off the debate, have one vote on final passage and be done with it.

I will say this because there is another Member of the minority here. I have another amendment that I have repeatedly tried to lay down. All it does is say with regard to the temporary worker program that before that program actually starts, the mechanisms be in place for it to work. The experts say that it takes about 18 months. You can start getting ready for it. You can put those mechanisms in place, and the minute they are ready, the program can start.

You might disagree with the amendment, but it is not an unreasonable amendment. There are a lot of folks who say: How can we trust you to have a workable program? And the answer is, watch us. We will create it. The sooner it is ready, you can start your program. That is the kind of thing we are talking about. I don't think they are unreasonable.

I appreciate the indulgence of my colleagues, but I wanted to clear up some things. You can't finish the voting until you start the voting. We need to start it. There are legitimate amendments. Nobody is filibustering.

Let us get on with the process so that we can conclude this important piece of legislation, get the bill to the House of Representatives, and hopefully be able to say at the end of this year that we were able to tackle and to successfully resolve the most difficult issue domestically facing this country today, the problem of illegal immigration.

I thank the Chair.

While the Senator from Maryland is present, allow me to congratulate her on her Lady Terps who in the first half didn't look like they were going to pull it out but came back like the champs they are.

Mr. ALLARD. Mr. President, I also have been working on a terrorist visa amendment. I call up that amendment, No. 3216, for consideration.

Ms. MIKULSKI. Mr. President, I object on behalf of the minority leader.

The PRESIDING OFFICER. The objection is heard.

Mr. ALLARD. I am very disappointed we cannot get that amendment up. I have been working now for some time to get that amendment to move forward. It is an amendment I filed last week. It is a simple, commonsense amendment that denies visas to advocates of terrorism. Yesterday morning, I came to the Senate to speak on that amendment and asked for a vote.

Now, more than 24 hours later, we have still not had a vote on my simple, 14-line amendment. It is just one example of the Democrats continued obstruction of well intentioned efforts to debate and make improvements to the immigration bill.

Put simply, the Democrats are denying me a vote on my proposal to deny visas to terrorists. Any Democrat who says this is anything other than partisan obstructionism are themselves in denial.

To demonstrate the height to which this obstructionism has risen, I am again going to explain what my amendment does and how simple it really is.

My amendment is so simple, in fact, that it adds only 6 words to the entire Immigration and Nationality Act. And half of those are the word ''or.'' The other three are ''advocate,'' ''advocates,'' and ''advocated.''

These 6 words are narrowly targeted to address a loophole in our current visa system that is evidenced by the following statement:

Colleagues, believe it or not, this a heading from our very own Department of State Foreign Affairs Manual. The same Foreign Affairs Manual issued to the Department's 25,000 employees located in more than 250 posts or missions worldwide.

Even more alarmingly, this is from the chapter that instructs our consular officers to whom visas should be issued. Visas are, of course, the ticket that foreigners, including terrorists, need to enter the U.S.

This instruction says to the consular officer deciding whether or not to issue a visa that they need not deny a visa to an individual who advocates terrorism. I, for one, cannot imagine a more pertinent ground for denial. If advocacy of terrorism is not grounds for exclusion, I don't know what is.

Not only am I concerned about the message this sends to our dedicated consular officers, I am just as concerned about the message this sends to terrorists. It says to them, feel free to lay the groundwork for an attack at home, apply for a visa, and come to America to finish the job. This is not the message that the U.S. should be conveying to terrorists.

This Congress has already passed important legislation denying visas to terrorists, including in the PATRIOT and REAL ID Acts. The REAL ID Act, signed into law on May 11, 2005, specifically states that one who endorses or espouses terrorist activity is inadmissible.

The real REAL ID Act became public law on May 11 of last year, 8 days after publication of this manual. Yet, today, more 10 months later, the State Department is still instructing its consular officers that advocacy of terrorism may not be a ground for exclusion.

Clearly, the State Department needs to be sent a message that we, in Congress, are serious about securing our borders. And particularly serious about preventing known advocates of terrorism—people who are most likely to wish harm to our country—from entering into the United States.

Admittance to the United States is a privilege, not a right. My amendment says, if you advocate terrorism, you lose the privilege of coming to the United States.

I would like the opportunity to debate this amendment. I, for one, am curious to hear from the Democrats their reason for opposing it.

It is a common sense amendment worthy of debate and a vote. I urge my colleagues to join me in calling for a vote on this legislation that slams the door shut in the face of advocates of terrorism who seek to enter our country.

I also submitted a second amendment last week which I believe is another commonsense amendment to improve the immigration bill.

My amendment No. 3213 calls upon the administration to develop a plan for securing the borders to curb the inflow of vast quantities of methamphetamine into this country.

Our Nation has been hard hit by the illegal trafficking of methamphetamine. My home State of Colorado is no exception. In just 10 years, methamphetamine has become America's worst drug problem—worse than marijuana, cocaine or heroin.

According to estimates from the DEA, an alarming 80 percent of the methamphetamine used in the United States comes from larger labs, increasingly abroad, while only 20 percent of the methamphetamine consumed in this country comes from the small laboratories.

Therefore, my simple amendment calls for a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government will implement to reduce the amount of methamphetamine being trafficked into the United States.

My amendment aims to build upon the methamphetamine provisions of the PATRIOT Act. We must impress upon the Secretary of State, the Attorney General, and the Secretary of the Department of Homeland Security the immediate need for a firm plan of action. It is imperative that such a plan include, at a minimum, a specific timeline to reduce the inflow of methamphetamine into the United States.

There must be a tough standard for keeping excessive amounts of pseudophedrine products out of the hands of methamphetamine traffickers. We must outline a specific plan to engage the top five exporters of methamphetamine precursor chemicals. It is important that we protect our borders to ensure national security and the safety of our communities.

Now, here we are today, 1 week to the day after filing my methamphetamine amendment, and still there has been no opportunity for a debate, much less a vote. I urge my colleagues from across the aisle to allow us to proceed on this and other amendments worthy of debate.

Mr. President, I yield for a question from the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Colorado for his leadership on this issue. I do not know if he saw the program ''Frontline'' recently, but it talked about the methamphetamine scourge that is affecting the United States and the fact that now more of this illicit drug is coming in from Mexico. It is a serious, serious problem. I congratulate him for addressing this problem.

I hope he understands that when we offered to call his amendment, asked for unanimous consent to call his amendment and adopt his amendment, there was objection on his side of the aisle. We stand ready at this moment to call your amendment for a vote and to adopt it immediately. I think it is a very important amendment, and it is one of those that was on the agreed list and, unfortunately, a Member on your side objected to it. So I hope we can get to it soon. I thank the Senator for his leadership on this amendment.

Mr. ALLARD. Mr. President, I understand negotiations are going on between the leadership in both parties, and my understanding is the methamphetamine amendment may very well be included in a managers' amendment and we will not have to be necessarily voting on that particular amendment.

There is a second amendment, though, that is very important we do bring up for a vote. I know this is also being discussed by the leadership. That is the one which states that advocates of terrorism be denied a visa.

I have two amendments. My hope is we can get that particular amendment up for a vote. It is the one I just recently asked for a vote on and was denied by your side. But I also understand the leadership on both sides are negotiating. I understand they are negotiating seriously. So I appreciate the fact it is being considered.

Mr. DURBIN. Mr. President, if the Senator will yield for a question or comment.

Mr. ALLARD. Yes.

Mr. DURBIN. I will just say that we believe the underlying bill, the Specter substitute bill, has very strong language to make it clear we do not want anyone in the United States associated with terrorism. We certainly do not want anyone in the United States associated with terrorism to reach legal status. That is reprehensible.

So I am prepared to offer to work with the Senator from Colorado on his amendment to make sure we have included that category with which he is most concerned. I thank him for his leadership.

Mr. ALLARD. Mr. President, I thank the Senator from Illinois for indicating support for that. I just think we need to go and get more specific language in the bill that we will be considering and, hopefully, will be reported off the floor of the Senate. I am just trying to address that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3420

Mr. SESSIONS. Mr. President, I send to the desk an amendment to the underlying bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3420 to the language proposed to be stricken by amendment No. 3192.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3421 TO AMENDMENT NO. 3420

Mr. NELSON of Nebraska. Mr. President, I send to the desk a second-degree amendment to the Sessions amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON] proposes an amendment numbered 3421 to amendment No. 3420.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. NELSON of Nebraska. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, over the last hour or two on the floor of the Senate there has been a procedural move by some Senators on the other side of the aisle which reduces the likelihood of a compromise on the immigration bill. I sincerely hope it doesn't end this effort because I think there are people of good faith on both sides of the aisle still trying to find a way to pass this important piece of legislation.

I want to give special credit on the Republican side of the aisle to Senator MARTINEZ, who I believe is working as hard as any person can to find the right language that preserves the basic principles of the Specter substitute, the bipartisan bill which passed the Senate Judiciary Committee. I hope he is successful. But there is a deadline looming and that deadline is a vote tomorrow morning on a motion for cloture.

Cloture is a procedure in the Senate which closes down debate and says we will limit the number of amendments that may be considered in the 30 hours after cloture is voted favorably. I am hoping that before tomorrow morning people of good will, trying to find a way to break this deadlock, will be able to do so. But the procedural effort by Senator KYL a few minutes ago is going to make that a little more difficult. I still think we can achieve that goal.

I also want to address a couple of comments made by the junior Senator from Arizona on the floor concerning the history of this bill and the process that led to this day. This last Sunday I was on a talk show, ''Face The Nation,'' with Chairman JAMES SENSENBRENNER of Wisconsin, the chairman of

the House Judiciary Committee. He is the author of the House immigration bill which passed in December. That bill includes very serious criminal penalties for those who are living in the United States undocumented, who may number as many as 11 or 12 million people. It also includes very serious criminal penalties for those who would help them reside in the United States if they are undocumented.

The charge under the Sensenbrenner bill is aggravated felony. It is the same charge leveled at someone accused of being a rapist. It is an extremely serious criminal charge, and the Sensenbrenner bill which passed the House includes this aggravated felony charge.

Most people across America believe the House bill has gone way too far in charging so many people who are in the United States with such a serious crime. On the floor it has been said by the Senator from Arizona that there was an effort to reduce that penalty to a misdemeanor on the floor of the House and that unfortunately the Democrats did not support that effort. It is true that 190 Democrats did not support that effort because they do not favor a criminal penalty for those who are here in an undocumented status. So ultimately the majority party in the House, the Republican Party, prevailed and the bill came to us with an aggravated felony as a charge against those who are here undocumented and those who help them.

What it means in the real world is that people of faith who are volunteers at soup kitchens or shelters for homeless people and those who are victims of domestic violence, volunteers who help children of the undocumented, tutoring them for classes, helping them in their lives, coaching their teams, nurses who provide volunteer assistance at clinics that treat the undocumented in the city of Chicago and around the United States, would be subject to a felony charge under the Sensenbrenner bill.

Senator SPECTER came to the Senate Judiciary Committee and offered an alternative. His alternative reduced the criminal charge to a misdemeanor. We brought that up for a vote in the Senate Judiciary Committee and I am glad that on a bipartisan basis we removed the criminal penalty that was in the original bill. I think that was a positive step forward.

The Senator from Arizona, who has raised this question, did not support our efforts to remove criminalization from the Specter bill, but the bill as it comes to the floor, thankfully, does not include criminalization. I hope that is the end of that issue as to whether we are going to charge Good Samaritans with a misdemeanor or a felony for helping needy people across America. I hope it is not revived as one of the concepts in this immigration reform.

The junior Senator from Arizona, Senator KYL, also raised questions about whether people who were guilty of a crime should be allowed to become legal in America or citizens in America. We tried to be very express in our statement in the bill, the Specter substitute, which was drafted originally by Senators MCCAIN and KENNEDY on a bipartisan basis, that if you are guilty of a crime we don't want you as an American. We understand you have done something in your life which disqualifies you from what we are going to offer you, a long and serious opportunity to find a pathway to legalization and citizenship.

Under the Judiciary Committee bill, the Specter bill as reported, the following is a partial list of crimes that make an individual ineligible for legalization. I read this list because there have been suggestions on the floor by the Senator from Arizona that we are not serious about this. Let me tell you expressly the crimes that would disqualify you from ever becoming a legal resident of America or a citizen under this bill: Crimes of moral turpitude such as aggravated assault, assault with a deadly weapon, aggravated DUI, fraud, larceny, forgery; controlled substances offenses—sale, possession, distribution of drugs and drug trafficking; theft offenses, including shoplifting; public nuisances; multiple criminal convictions. Any alien convicted of two or more offenses, regardless of whether the offense arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more, crimes of violence, counterfeiting, bribery, perjury, certain aliens involved in serious criminal activity who have asserted immunity from prosecution, foreign government officials who have committed particularly severe violations of religious freedom, significant traffickers of persons, money laundering, murder, rape, sexual abuse of a minor, possession of explosives, child pornography, attempts or conspiracies to commit most of these offenses—and there are some security-related crimes that make a person ineligible as well, espionage or sabotage—engaging in terrorist activity.

The reason I make special note of that is there have been references several times on the floor by the Senator from Arizona to Mohamed Atta, the fact he was a terrorist, a man who was responsible in large part for the tragedy of 9/11. Make no mistake, that bill would not give him an opportunity to become a citizen of the United States. Why in the world would we ever consider that? I am sure the Senators from both sides of the aisle who supported the bill would never, ever consider that possibility.

Those who were associated with terrorist activities, representatives of a terrorist organization, spouse or child of an individual who is inadmissible as a terrorist, activity that is deemed to have adverse foreign policy consequences, and those who are members in a totalitarian party.

We have cast the net far and wide to disqualify people from even being considered for legal status in this country if they have been guilty of this type of conduct.

So though the Senator from Arizona and I may disagree on some other aspects of the bill, when it comes to criminal activity I think we are in agreement. Criminal activity is going to disqualify you from being considered for legalization in the United States. That is a tough standard, but it is the right standard and I hope we can make it clear during the course of this debate that we believe it is important to maintain in the bill and that the amendment of Senator KYL does not add anything, really, remarkably, to this criminal disqualification.

The bill which passed out of committee, of course, sets up several things. First, it sets up an enforcement mechanism which is substantial, much like the amendment offered by Senator SESSIONS of Alabama in the committee. It adds 12,000 new agents to our Border Patrol, adds 1,000 investigators a year for the next 5 years—that was Senator SPECTER's amendment; new security perimeter, under Senator SPECTER, virtual fence, tightened controls, exit/entry security system at all land borders and airports, construction of barriers for vehicles and mandating new roads where needed, fences, checkpoints, ports of entry, increased resources for transporting aliens, new criminal penalties for tunnels—that was a recommendation of Senators FEINSTEIN and KYL—new criminal penalties for evading immigration officers, by Senator SESSIONS—all of these amendments accepted, included in the bill in the enforcement section—new criminal penalties for money laundering offered by Senator SESSIONS, accepted as part of this bipartisan bill.

There is an amendment on a comprehensive surveillance plan by Senator SPECTER; and also, I should say, expanded smuggling efforts, improved interagency cooperation on alien smuggling; increased document fraud detection; biometric identifiers; expanded detention authority; and increased detention facilities and beds.

We require the Department of Homeland Security to acquire 20 new detention facilities to accommodate at least 10,000 detainees, a suggestion by Senator SESSIONS which is part of this bill; expanded terrorist removal grounds; expanded aggravated felony definition; increased Federal penalties for gangs; removal of those who have failed to depart; increased criminal sentences for repeat illegal entrants; new removal grounds; passport fraud and fraud offenses as a ground for removal; removal of criminals prior to release; new authority for State and local police to investigate, apprehend, arrest, detain, or transfer aliens to Federal custody; immigration status in the NCIC database now becomes an element that we require; we prohibit time limits on background collection; impose criminal penalties for aid for the

undocumented; assistance to States to help prosecute and imprison undocumented criminal aliens; stronger employment verification procedures; penalties for employers who hire undocumented aliens are increased; additional worksite enforcement and fraud detection agents.

We add 10,000 new worksite enforcement agents, 2,000 every year for the next 5 years, and 5,000 new fraud detection agents, 1,000 each year for the next 5 years.

I read this lengthy list so the Record would be clear that we have made serious efforts on a bipartisan basis to accept amendments even from those Senators who oppose the underlying bill so there is no question that we will have strong enforcement standards to secure our Nation's borders, and to also say those employers who ignore the law will be penalized and will be investigated so that they understand we are serious.

The reason, of course, I bring this up is the suggestion earlier that this bill would not strengthen our borders. I think it does. I think it makes a genuine effort on a bipartisan basis to deal with our broken borders.

It also says, however, that once in the United States, for the undocumented status we will give you a chance, a chance to work your way to citizenship. It is a long journey. It has many serious requirements as you move toward that goal, and many people won't make it. Some will fail in the effort. But if you want to become legal in the United States of America, you need a clean criminal record. And I spelled out here the crimes that would clearly disqualify you.

You must show you have been employed here since January of 2004. You must remain continuously employed, pay approximately $2,000 in fines and fees, pass a security background check, pass a medical exam, learn English, learn U.S. history, pay all your U.S. back taxes, and then if you have met all nine requirements, you go to the back of the line. It is your turn after all of those who have applied through the legal processes which are currently available.

So those who argue this bill is amnesty and it is automatic, that it is a free ticket to citizenship overlook the obvious. These are stringent requirements. Many people will never meet them. Some will give up. But those who are determined to become American citizens and a part of our country, determined to be legal in their residency, who work hard and achieve it, if they keep their eye on the goal—and the goal is after 11 years—will finally see that day when they can be sworn in as a citizen of the United States.

Tomorrow morning we are facing a very serious vote on cloture. There have been a lot of arguments made on the floor as to whether the right amendments have been called. We tried to bring additional amendments to the floor in the last couple of days, unsuccessfully. There have been disagreements about which amendments should be called and in what order.

I don't think history is going to long note or remember what order the amendments were that were called before this bill is up for cloture. If the cloture vote fails tomorrow, if 60 Senators don't step forward to vote for it, sadly that could be the end of immigration reform for the entire year.

It is a very busy calendar we have in the Senate. It deals with things that are of great urgency. When we return after the Easter recess, we will have a supplemental appropriations bill for our troops in Iraq and Afghanistan. It is a very high priority. The Defense authorization bill will follow; then a string of appropriations bills that need to be enacted before we take our 4th of July break.

There is a lot to be done. I am hoping we can get it all done. But the thought that we can carve out another week or two to return to immigration at a later date may be fanciful. I am not sure we can achieve that. This is the moment.

Tomorrow many Senators will come to the floor and decide whether they will be part of history, whether they will cast a vote for cloture which brings to the floor a definite deadline and timetable for debating this comprehensive immigration reform.

It has been decades since we took this up seriously. We have spent a lot of time. We have a strong bipartisan bill. We have a bill that is supported by business and labor groups across America, including many religious groups that have come forward and encouraged us to do this in the name of humanity and of American values.

Tomorrow, with this cloture vote we will have a chance to be on the RECORD for time immemorial as to where we stand on this issue.

Some have already decided to oppose this bill. They are going to, postcloture. I understand that. But for those who think they can vote against cloture and argue they were for this bill, they may have a tough time describing that to the people back home.

I think about those I met this last week. I mentioned it earlier on the floor. The students in the Catholic high school in Chicago are following this debate every single day. They know their future is at stake. These are children who came to the United States at an early age because their parents decided to come here. They have lived here their entire lives. They have gone to school here, lived in the neighborhoods of America, and some have been extraordinary successes against great odds. Their life's dream is the same dream those children have, to be a part of America's future and do something good in their lives. They will be denied that opportunity if the DREAM Act, which is part of this bill, does not pass. They will be illegal and undocumented. If the legal system catches up with them, it will tell them to return to a country they cannot even remember. If it doesn't catch up to them, they will continue to reside in the United States in undocumented and illegal status, unable to get a driver's license in many States, unable to be approved to be teachers and licensed to contribute to America, unable to secure the important jobs that can make a difference in our future. Their fate is tied to this bill.

Those who vote against cloture tomorrow have basically said we don't need them; that we don't need to pass the DREAM Act; that these children and their fate and their future is none of our business. I think it is.

I think these young people, some of whom I was with this last Saturday, are amazing. They have overcome the odds. They want to contribute, have the chance every kid in America wants, to prove themselves and have an opportunity to show they are worthy of American citizenship. Why do we turn them down? Wouldn't we want to make certain they have that chance? A vote for cloture tomorrow is going to give them that chance. A vote against cloture will not.

There are many who will argue that they are against this bill. I hope other amendments will be offered.

Senator KENNEDY came to the floor earlier and said if you don't like this bill, vote for cloture. Close down the amendments that can be offered, limit the amount of debate and then vote against the bill, if that is your wish. But give us a chance.

Tomorrow morning we will be asking for that chance from 60 Members of the Senate which is necessary for that cloture motion to prevail.

Senator KYL suggested that the only way to move forward to a vote on this comprehensive package and the amendments is if his amendment is voted on first. Senator KYL was in discussion with me this morning and acknowledged that we need to sit down and make some important changes to the amendment which is presently before us. There are some parts that are vague and uncertain. Lives hang in the balance.

I tried to make it clear to Senator KYL there are ways he can use his own language that he used in previous bills and tighten up the language in his bill so there is no uncertainty and less vagueness. I am prepared to sit down with him and the staff. I tried to reach him during the course of the day. I know he is very busy. If he wants to work to bring the language together on this amendment, I want to work with him and hope we can find a way to strike some good language that might be supported on both sides of the aisle.

I see the chairman of the Senate Judiciary Committee on the floor. I will not miss this opportunity to say while I have the floor that I respect him very much for what he has done in the committee, the hard work in committee which I am proud to be part of. I thank him for his hard work in bringing this bill to the floor. We have had a rocky

period of time during the amendment phase—not nearly as many amendments as I would have liked to have seen called. But I hope after the cloture vote tomorrow we can roll up our sleeves in the remaining period of time and do the right thing, pass the Specter substitute with some key amendments and show that this Senate is dedicated to true, comprehensive immigration reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I appreciate the contribution the distinguished Senator from Illinois has made to the Judiciary Committee. When he says we have had a rocky time, he is a master of understatement.

Again, he didn't hear my comment, like earlier today in responding to one of his questions. He was conversing. So I will repeat this one.

When the distinguished Senator from Illinois says we have had a rocky time on the amendments, he is a master of understatement.

I share his hope, although not much expectation, that we will be able to complete action on this bill before we adjourn for the recess. The Senate is a phenomenal institution, smarter than any of its Members or the composite of all of its Members—not that that would necessarily take a whole lot. But the Senate has functioned for a long time as an institution where there seems to be a way to work through these issues ultimately. If we cannot find that answer before we adjourn for the recess, it is my hope we will find it shortly thereafter. This is an issue and a problem which has to be addressed and has to be solved.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 426 are printed in today's RECORD under ''Submitted Resolutions.'')

Mr. SPECTER. Mr. President, it appears conclusively at this point that we are not going to make any—I was about to say any more progress. I can't say that because that suggests there has been some progress. We can't make any progress on the immigration reform bill, so that my colleagues will be aware that nothing further will happen on that bill for the remainder of the evening. Hopefully, we can make some progress overnight and in the morning on the proposed compromises so we can have a fruitful day tomorrow.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. THUNE. Mr. President, I thank the distinguished Senator from Pennsylvania, the chairman of the Judiciary Committee, for his good work in producing a bill that has become the subject of debate in the Senate dealing with a very important issue to our Nation, something that people are extremely engaged in, one that has generated a lot of debate and a lot of controversy around the country but clearly one that needs to be addressed.

I have listened and observed as the debate has gone forward and listened to the content of that debate over the past several days and come to somewhat of an objective point of view because I come from a State that is not a border State. We do not have to deal with the issues on a daily basis affecting many of our States on the northern or southern border.

Having said that, it is an issue which has captured the discussion being held across this country even in States such as mine, the State of South Dakota. The reason for that is very simple: People see day in and day out some of the images broadcast across the television screen and the people who come to the United States illegally. They deal with the burden and cost associated with some of the public services associated with illegal immigration in this country. So they view it very much as taxpayers. They view it as an issue that, frankly, needs to be addressed. They want to see the Senate act in an appropriate and a timely way.

I have to say, too, I have heard a lot of people in the Senate reference their ancestry. Various Members of the Senate have described in detail how their ancestors came to this country, the personal perspective they have on the issue, and the experiences that have helped shed light and inform their opinions about it. I, too, am not the exception to that. I have roots that go back, with a grandfather that came here from Norway, back in 1906, along with my great-uncle Matt, when they came through Ellis Island. The name that I now have, the Thune name, was not their name. Their name was Gjelsvik. They came through Ellis Island and the immigration officials asked them to change their name because they thought it would be difficult for people in these United States both to spell and pronounce. They did not speak a word of English. I should say, almost no English. My understanding is that when they boarded the train that took them to South Dakota, the only English they knew were the words ''apple pie'' and ''coffee.'' So they had a lot of apple pie and coffee between Ellis Island and South Dakota.

They came to this country for the same reason that people all over the world come to this country. I am very sympathetic to those who want to come to the United States for everything that we stand for: for opportunity, for freedom, to live the American dream.

My grandfather and my great-uncle came here and worked on the railroads when they were building the Transcontinental Railroad into South Dakota. They put their money together to start a merchandising company that later became Thune Hardware. So they were small business people in this country, something that so many people aspire to all over the world. They want to come to the United States for the miracle and for the dream that is America.

I am sympathetic to the history and the culture and the tradition we have as a nation of being a welcoming country, a country that says to bring your poor, your huddled masses yearning to breathe free. I approach the debate on immigration from that perspective, that context of having a grandfather, one generation removed from me, who came to this country for all the various reasons that people today continue to want to flock to America.

As I have listened to the debate, I have tried to give consideration to all the different perspectives that are presented. It seems to me, at least as I try to make decisions about this, formed by my constituents in South Dakota and formed by my experience, background, and my history, to come to conclusions in the best interests of our Nation, in the best interests of continuing that tradition of treating those who come here fairly, but also the importance of American principles.

One of those American principles is the rule of law. We are a nation of laws, and that entails that we have to be able to enforce those laws. If we cannot enforce those laws, if we are not going to apply and adhere to those laws, those laws end up being pretty meaningless and irrelevant in the long run. I come to this debate with some principles in mind, not having drawn any hard conclusions on any specific piece of legislation but wanting to see the Senate do its work, wanting to see the Senate do what the people in this country expect us to do, and that is to confront the big issues, to deal with the challenging issues, to vote on the big issues, to bring resolution and clarity to the problems and the challenges that face this country.

What is perplexing about what is happening in the Senate right now is we have a base bill that has been reported out by the Judiciary Committee. Granted, it may not be the perfect bill. Frankly, there are many who would like to see that particular piece of legislation amended. Many of us would like to vote on some of those types of amendments that could be offered. Regrettably, the minority has decided they are not going to allow votes on amendments, allegedly because they are votes they do not want to put their Members in precarious political situations, having to make votes on amendments they would rather not vote on.

As a consequence, we are not having votes on amendments. We are just basically blocking the whole substance of this debate from going forward and the Senate from doing the work that the American people expect us to do and, frankly, what the tradition and history of the Senate would suggest that we ought to be doing; that is, amending this base bill, having this debate, this discussion, allowing people with different ideas and different perspectives and different points of view to come in and offer their amendments, to have those amendments debated, to have

people listen to that debate, and then come and vote on those amendments so that eventually we can produce a product that is the composite view of the Senate, reflective of a majority of the Senators.

What has happened in the Senate is the minority has decided, one, we are not going to vote on amendments. If we do have any votes on amendments, they will dictate what those amendments are that we will vote on. So far as tomorrow, insisting on a cloture vote on the underlying bill without having allowed any of the debate on any of the amendments so that we have an opportunity for people to be heard, people to offer their amendments, and people to improve, in their view, in their particular point of view, the legislation before it is ultimately passed out of the Senate and goes to conference with the House and enacted into law.

The fundamental problem with the way the Senate is functioning in this debate is that if we fail to allow individual Members to follow what is the protocol of the Senate, what is the tradition of the Senate, and that is the institution that allows for open debate, the institution that allows for amendments to be offered to legislation, for individual Senators to come over and to have their point of view heard in that debate and offer amendments that are more reflective of their particular idea about how this problem ought to be addressed or this challenge ought to be met, we are undermining the basic foundation of what this Senate and this institution is all about. But, more importantly, we are keeping the people's business from being done.

We are, if we have this cloture vote tomorrow—and I suspect the minority will insist on this cloture vote because they want to have a vote on this bill without having any debate on any of the amendments that our side wants to have votes on and report a bill out. You have the minority of the Senate dictating the terms and conditions under which we will have this debate, the amendments that will be voted on, and, ultimately, the shape of the bill that will come out of here.

This side of the aisle, the majority, 55 Members of the Senate, want to be heard on this issue, as well. What we need to understand is, yes, there are rules that allow the Senate to slow things down, to allow for extended debate on subjects, but ultimately we need to move the process forward. That means voting on legislation.

We had a big debate in the last couple of years about inaction in the Senate due to obstruction, due to blockage, due to dilatory tactics employed by the minority. People have rejected that. People in this country want action. They want action on this specific issue. This is an issue that generates strong emotions all across the country.

Frankly, I believe the American people expect and they deserve better than what they are getting from the minority in the Senate who have insisted, again, that we not vote on amendments that the majority wants to offer. Basically, we report the bill out, they dictate the bill that passes the Senate.

That is not right. We have heard people get up on both sides today, both Democrats and Republicans, and speak to this issue. We heard earlier today the Democrats get up and say: We are not really trying to block this. We are willing to vote on amendments—our amendments, just not your amendments, not amendments that are offered by the majority side in the Senate.

That is not to say they do not have some good ideas, but the truth is, there is not a monopoly on good ideas on either the Republican or Democrat side, and this Senate ought to be allowed to work in the way it was intended to work. Republicans and Democrats can both offer their amendments and they can both be voted on and we can shape the legislation in a way that is reflective of the majority view in the Senate.

Tomorrow we will have a cloture vote. It will fail because the minority is going to insist we have a cloture vote. But no one on this side is going to allow the minority to dictate the terms of this debate or the amendments that ought to be considered or to block having votes on amendments that the Republicans in the Senate would like to have votes on.

As I said before, I tried to approach this debate in a very objective way and, frankly, as I look at it, there are some very critical components that need to be in a bill. First and foremost, border security. As I said earlier, one of the reasons that America stands unique in all the world is we are a nation of laws. We respect the rule of law. It means something in America.

There are other places in the world where the rule of law does not mean much, and tyrants and dictators come up with their own version of what the laws are. Here in the United States, we have a Constitution. We are a constitutional Republic. We have laws. We abide by those laws. We need to enforce those laws.

We have not been doing the job we need to be doing of enforcing our laws with respect to the borders, controlling the borders in this country. That has all kinds of implications. This should not be lost on the American people. One of the reasons people in South Dakota care about this issue, even though we are not a border State is, they understand, as I do, that controlling and protecting and securing our borders is a matter of national security. Irrespective of where you come from in the world, if you come to the United States—as I said earlier, I have Norwegian ancestry, but if you have Hispanic ancestry, European ancestry, Asian ancestry, whatever—when the terrorists come across the border like they did on September 11 to destroy and kill Americans, they do not discriminate about where that individual comes from in the world. They want to kill Americans, pure and simple. I don't care what your race or national origin, ethnicity is, flatly, very simply, this is a matter of national security. And securing our borders has to be the fundamental component around which we build this debate.

That is one of the principles I come to the debate with. Again, I have no previous position as we enter this debate about individual pieces of legislation. I am listening to it. I will have the opportunity, I hope, at some point, if the Democrats will allow us to, to vote on amendments. But the reality is right now we are not having that opportunity. Again, I simply say that as a matter of principle, ultimately we need to report a bill out of here that does secure the borders of the United States so that people in this country can know with confidence and can trust that we are serious about keeping our borders secure if for no other reason than as a matter of national security.

Secondly, I would say, as a fundamental principle, we have to enforce our laws. There has been a big debate about: What do you do about people who are already here illegally? I think that is a very important question in this debate. There are somewhere between 11 and 12 million people, we are told, who have come to this country who are now here illegally, and we have to figure out, from the standpoint of status, how we deal with those people in this country.

But, again, a fundamental underlying principle ought to be that we cannot reward illegal behavior. We want to reward legal behavior. We want to reward people who came here and who followed the rules. I heard lots of people get up and talk on the floor about their ancestry and how they came to this country, but I suspect most of them, like my grandfather and great-uncle, came here by the rules that were put in place. They followed the law.

We want to encourage and provide incentives for that kind of behavior. For people who want to come to America, we have a process by which they can come here, but it is consistent with a set of rules and laws we have in place. We have to make sure we are encouraging legal behavior, that we are discouraging illegal behavior, that we are not putting incentives in place for illegal behavior and, furthermore, condoning or conferring benefits on people who systematically decide to break the law.

So I happen to be of a view that I believe in a guest, temporary worker program, perhaps some form of permanent resident status. But I think, again, when you start talking about conferring the benefits of citizenship on people in this country who are here illegally without some sort of penalty for that—in other words, if we just wave our magic wand and say anybody who is here can stay, and so be it, we have done a disservice to our history and our traditions as a nation of laws.

I think it is important we understand there needs to be consequences to illegal behavior. We have talked about amnesty. It has been thrown around a lot here. Essentially, what that means is there is no consequence to behavior that is illegal. I think it is important we make it fundamentally clear to people who do want to come to this country that we are a nation, yes, of immigrants, we welcome people, but we want people to come here according to the laws.

I would say that at the end of day, when this is all said and done, again, we need to have votes because this is an issue that around the country is generating tremendous heat, tremendous emotion, and has been percolating for some time. As people look at the images on their television of people who come here illegally, they are worried about national security, they are worried about the economic consequences, the consequences to the taxpayer of providing services to people who are here illegally.

People want action. They want action by the U.S. Senate. I think we have a responsibility, in this body, after everything is said and done—and usually what happens in the Senate is more gets said than done—but when everything is said and done, to come together on legislation that would accomplish the goal; that is, to address the issue of immigration in a way that is fair and in a way that is consistent with our culture and our history and our tradition as a welcoming country but is also consistent with our tradition as a nation of laws. I believe we can come to that kind of a resolution here in the Senate if—if—our colleagues on the other side will allow us to vote on amendments.

Now, the Senator from Georgia, who is currently the Presiding Officer in the Senate, has an amendment I would like to vote on. It is called the trigger amendment. Basically, it says that until it is certified that the borders are secure, then all these other issues we are talking about with respect to this debate are just conversation; that, first and foremost, we have to secure the borders, and it has to be certified we have made the efforts, that we are serious about doing that. I think it is a good approach. At least it ought to be an approach that is voted on.

Now, our colleagues on the other side, the Democrats, do not want a vote on the amendment of the Senator from Georgia because they do not think that would be a good political vote for them. What it suggests to me is we have colleagues on the other side of the aisle who are a lot more concerned about having an issue, a political issue, than they are about having a solution to this problem. What we need in the Senate are more people on both sides, Republicans and Democrats, who will confront this issue for what it is.

That is probably the most difficult, challenging issue that is facing the country, on a domestic level at least, currently or for some time. We are fighting a war on terror in Iraq. It has demanded a lot of attention and a tremendous amount of resources. But when it comes to domestic issues—and there are many. I am very interested in this body working on issues. As we move forward throughout the year, we have votes scheduled on health care reform because health care costs are critical. We have to get that under control in this country.

We are going to have votes on extending some of the tax relief that will allow the economy to continue to grow and to create jobs and to make sure the economic engines are keeping this country moving forward. We are going to have votes on those types of issues as we go forward. And, of course, we are going to deal with the annual appropriations and budget process, and a whole range of other issues before the year is out.

They are important issues. They are all important to the American public. But I would submit to you that right now there is no more urgent issue, no issue that demands an answer, that demands a solution, that demands action by the Senate than the issue of immigration.

And what is the Senate going to do? Are we going to move forward? Are we going to, consistent with the tradition and the history of the Senate, allow for debate and allow for votes on amendments or are the Democrats, the minority in the Senate, going to continue to insist on blocking amendments, votes on amendments, simply because they do not want to vote on certain amendments because those amendments might be tough political votes for them?

Well, we all make tough political votes. There are amendments they are going to offer that I will not want to vote on. In fact, there may be some amendments offered by colleagues on my side of the aisle that I really do not want to vote on. But we are here to vote. That is what people send us here to do. It is to do the people's business.

It is important we have the opportunity to deal with what is the most important singular issue I think the American public is focused on today and that they want us to deal with. It is the responsibility of the Senate to debate—allow for extended debate—to consider amendments, but ultimately to vote. That means voting on amendments that are offered both by my colleagues on the Democratic side as well as my colleagues on the Republican side, even if they are amendments that I may not want to vote on.

I have to say again, there are amendments I probably would rather not vote on, if I was thinking purely about the political consequences of some of these votes. But the fact is, we are here to vote. We are here to do the people's business. It is high time we did it.

I encourage and I urge my colleagues on the Democratic side to join with my colleagues on the Republican side in putting aside the politics, putting aside the delaying tactics, putting aside the obstruction and the blocking of the agenda, and allow us to move forward to vote on amendments and to report out of the Senate a bill—and it may not be everything we want but allow this institution to act in the manner in which the people of this country expect us to act, and, frankly, in a way the American people deserve.

So I hope tomorrow will be the day we will break the logjam, that we will be able to get a bill we can report that the Senate can take a final vote on but that is reflective of the majority views in the Senate, including an opportunity to vote on individual amendments and to move this debate and this process forward so we can get into conference with the House and shape a bill we can put on the President's desk that will send a loud, clear message to the American people we are serious about border security, we are serious about our Nation's history as a nation, a welcoming culture, a nation of immigrants, but we are serious about enforcing the rule of law in America.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator yields back.

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, as a prelude, we have a number of requests and items of business to take care of. I will explain here shortly.

MOTION TO COMMIT

Mr. President, I move to commit the bill to the Judiciary Committee to report back forthwith with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to commit the bill to the Committee on the Judiciary with instructions to report back forthwith the following amendment No. 3424.

Mr. FRIST. I now ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3425

Mr. FRIST. I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3425 to the instructions to the motion to commit.

The amendment is as follows:

At the end of the instructions, add the following amendment:

This section shall become effective one (1) day after the date of enactment.

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3426 TO AMENDMENT NO. 3425

Mr. FRIST. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3426 to amendment No. 3425.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike ''one (1) day'' and insert ''two days''.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk on the pending motion to commit.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to commit S. 2454, the Securing America's Borders Act.

Bill Frist, Arlen Specter, Michael B. Enzi, Lindsey Graham, Trent Lott, Chuck Hagel, John McCain, Mitch McConnell, George V. Voinovich, Mel Martinez, Lamar Alexander, Norm Coleman, Pete Domenici, Orrin Hatch, David Vitter, Johnny Isakson, Jim DeMint.

Mr. REID. Parliamentary inquiry: Does this mean there are no other amendments in order? I couldn't file another amendment now, could I?

Mr. FRIST. Mr. President, that is correct. At this moment in time, you would not. If we were allowed to go ahead on the amendments, and once we start disposing of the amendments, this is something that would be in order.

Mr. REID. I was curious why we aren't able to offer any amendments at this time, but we can talk about that tomorrow.

Mr. FRIST. Mr. President, the point is well made.

CLOTURE MOTION

I send a cloture motion to the underlying bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 376, S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform, and for other purposes.

Bill Frist, George Allen, Mitch McConnell, Pete Domenici, R.F. Bennett, Jim Talent, Craig Thomas, Elizabeth Dole, Conrad Burns, Jim DeMint, Saxby Chambliss, Johnny Isakson, Ted Stevens, Wayne Allard, Norm Coleman, Trent Lott, John Thune.

Mr. FRIST. All right. Mr. President, what we have just done, so our colleagues will understand, is as follows: Tomorrow morning, notwithstanding the fact we have yet to vote on even the very first amendment offered, we will have a cloture vote that—

Mr. DURBIN. We have adopted three.

Mr. FRIST. I will stand corrected. No, I will not stand corrected. On the very first amendment that was offered we still have not had a vote. And, yes, there have been several other amendments that have been addressed. We will have a cloture vote, which was filed by the minority leader, on the underlying Specter substitute amendment, and that will be the first vote tomorrow morning.

I suspect that cloture vote will fail. And we have been very clear about our desire on this side to consider amendments from Senators on both sides of the aisle and our willingness for votes. We discussed that over the course of the day. It appears that this will not be likely and, therefore, we will be prevented from making any real progress on the bill.

So moments ago I offered a motion to commit, which incorporates an amendment by Senators HAGEL and MARTINEZ and others who have been working on this amendment over the course of the day. The fact that those cloture motions were filed tonight means that we would have the cloture vote on that motion on Friday. And depending on the outcome of that cloture motion, we could have a second cloture vote on the underlying bill, the so-called Frist bill, as well.

So we will have the Specter cloture vote tomorrow morning, and then one or possibly two other cloture votes on Friday morning.

Mr. REID. Will the Senator yield?

Mr. FRIST. I am happy to yield.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, I would hope, the amendment—we have a general idea what it is about—I would hope this amendment is one, as it has been related to me, that is such that it improves the underlying Specter substitute, that it deals with only the legalization process.

I would hope, after Senators and staff pursue that amendment in detail tonight, that it is something we could all support and move on to completing the bill as soon as germane amendments were offered and debated and voted upon.

It would be great if we could end this very acrimonious week on a high note. And we will not know that until we study this amendment. We are hearing of a lot of things that are in it and not in it. So time will only tell.

I would say, through the Chair to the majority leader, because we have already had phone calls in the last half hour or so from Senators—they have asked me, as the distinguished majority leader did earlier today, if I would agree to earlier cloture votes. I do not know what the pleasure is of the Senator from Tennessee, if you want to wait until Friday, or you want to try to complete this tomorrow.

Mr. FRIST. Mr. President, through the Chair—and we had discussed the possibility of that a little earlier—I think it is best for us to make that decision tomorrow, only because the Hagel-Martinez amendment is a negotiated compromise amendment that none of our colleagues have had the opportunity to really see yet.

I have had numerous phone calls over the course of tonight as well. I think it is important people have the opportunity to look at that carefully tomorrow and see how much time it takes for people to have both the opportunity to look at it themselves, as well as their staff. We ought to keep that potential on the table.

Mr. REID. So unless there is some agreement, the two cloture votes would begin occurring an hour after we come in on Friday.

Mr. FRIST. Through the Chair, that is correct.

Mr. REID. Is that right, I say to the Chair?

The PRESIDING OFFICER. The Senator is correct.

Mr. FRIST. There may be some other cloture motions to consider on Friday, which I will come to here shortly.

UNANIMOUS CONSENT REQUEST—S. 1086

Mr. FRIST. But before doing that, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 251, S. 1086. I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, Senator KENNEDY and other Senators have been told prior to this piece of legislation passing there would be a vote on hate crimes legislation that has been in this body for a long time.

I would hope—and it is my understanding the chairman of the committee had worked this out with Senator KENNEDY—we could, at an early date, I mean in a matter of hours, work this out. This sex offender registry is

an important piece of legislation. But also, as we have learned here in the Senate, people keeping their word is also important. I am confident it was some kind of a misunderstanding. I am hopeful that is the case. But until Senator KENNEDY and others and Senator SPECTER work this out, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, just a moment of explanation because I think this bill is, in substance, broadly supported. I am disappointed to hear the objections tonight.

Let me comment very briefly on the bill because it is an issue that I think this body does feel strongly about and that we need to move forward on because it can make a difference. This particular bill is child predator legislation, and we all need to be working together to keep our children safe from child predators. American families, as we all know, should not have to live in fear of sexual predators lurking in neighborhoods and enticing our children.

In the last 24 hours, we have all seen—actually here in the Senate and in this town—we have learned some shocking and tragic news about the growing problem of online child pornography. The abuse of the Internet has really, unfortunately, become the gateway to more serious violent sex offenses against both children and adults.

On Tuesday night, we learned of the arrest of another online child predator and the tragic plight of a child predator victim. The predator was an official from the Department of Homeland Security who was arrested for seducing a child over the Internet. Allegedly, this individual initiated a sexually explicit online chat with a detective posing as a 14-year-old girl. He allegedly described in graphic detail the sexual acts he wanted to perform with her and offered to exchange sexually explicit photos. Fortunately, law enforcement intercepted this individual before he could victimize an innocent child.

But for too many innocent children, the child predators are not caught until it is too late. Yesterday we also heard from one of the victims: 19-year-old Justin Berry from California who courageously testified before a House Energy and Commerce Committee hearing on sexual exploitation of children over the internet. For 5 five years, Justin was the victim of an online child pornography ring. At 13, this lonely teenager innocently hooked up a web camera to his computer, hoping to meet other teenagers online. Instead, he heard only from adult child predators who struck up friendly chats and offered him compliments and gifts. One day, one predator offered to pay him $50 to take off his shirt in front of the webcam. Eventually, these predators lured him into performing pornographic acts in front of the webcam for an audience that grew to more than 1,500 people who paid him hundreds of thousands of dollars.

These shocking stories are not isolated incidents. They are symptomatic of a larger problem.

I believe we should seize this opportunity to transform these tragedies into positive action.

The bill I called up tonight—S. 1086, the Sex Offender Registration and Notification Act—would help protect our kids against child predators. It was introduced by Senator HATCH. It has 33 bipartisan cosponsors. It was reported unanimously by the Senate Judiciary Committee. It is supported by the Fraternal Order of Police, the National Center for Missing and Exploited Children, the Boys and Girls Club of America, the Federal Law Enforcement Officers Association, and the National District Attorneys Association. And it is supported by the families of child predator victims.

Among its many provisions, the bill will create a national sex offender registry accessible on the Internet and searchable by zip code;

Require convicted sex offenders to register, including child predators who use the Internet to commit a crime against a minor;

Make failure to register a felony;

Encourage information sharing among local, State and Federal law enforcement; and

Toughen criminal penalties for violent crimes against children under 12.

Here in the Senate, we need to act to address this issue. In light of the events this week, we should not delay. We should act now before another innocent child becomes a victim of a child predator.

It is an issue we do need to address, and I believe it will pass in an overwhelmingly bipartisan way. In light of the events of this week, we should not be delaying it any longer. I look forward to working with my colleagues on the other side in getting this bill passed as soon as possible.

Mr. REID. Mr. President, very briefly, if the distinguished majority leader will yield, Democrats support the concept of a national registry. It is important. But we also support the concept that people who are injured, maimed, or murdered as a result of hate crimes also deserve protection. We hope we can do all this at one time. I am hopeful and confident that can happen.

EXECUTIVE SESSION

NOMINATION OF BENJAMIN A. POWELL TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent to proceed en bloc to the following nominations on the calendar: No. 239, Benjamin Powell; No. 310, Gordon England; No. 485, Dorrance Smith; No. 252, Peter Flory. I further ask unanimous consent that the clerk report them individually at this time in order to file cloture motions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the first nomination.

The legislative clerk read the nomination of Benjamin A. Powell, of Florida, to be General Counsel of the Office of the Director of National Intelligence.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Benjamin Powell to be General Counsel of the Office of the Director of National Intelligence.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune.

NOMINATION OF GORDON ENGLAND TO BE DEPUTY SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gordon England, of Texas, to be Deputy Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Gordon England to be Deputy Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Larry E. Craig, Ted Stevens, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune, Craig Thomas.

NOMINATION OF DORRANCE SMITH TO BE AN ASSISTANT SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Dorrance Smith, of Virginia, to be an Assistant Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Dorrance Smith to be Assistant Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, R.F. Bennett, John Thune.

NOMINATION OF PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Peter Cyril Wyche Flory to be an Assistant Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, Robert F. Bennett, John Thune.

Mr. FRIST. Mr. President, for clarification, I just filed cloture on four defense nominations that have been pending since last year.

LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING MARGO CARLISLE

Mr. COCHRAN. Mr. President, yesterday was a sad day for me because it was the day when friends and family of Margo Carlisle, my former chief of staff, gathered to bid her farewell.

Margo worked faithfully in a number of positions of responsibility here in the Senate. She was the first female staff director of the Senate Republican Conference, under the chairmanship of former Senator Jim McClure of Idaho. She was my chief of staff from 1991 to 1997. All who worked with her here know of her respect and appreciation for the Senate, and her conscientious devotion to our great country.

She served as Assistant Secretary of Defense for Legislative Affairs from 1986 to 1989, and at that time, she was one of the highest ranking women in the Department of Defense. She received the Distinguished Public Service Medal in recognition of her outstanding performance of duty in this important office.

She also served as vice president of the Heritage Foundation, president of the Philadelphia Society, and was a member of the board of the Marine Corps University in Quantico and the Washington Home Hospice.

She is survived by her husband of 45 years, Miles; and two children, Mary ''Nisi'' Hamilton of Bethesda and Tristram Coffin Carlisle of Alexandria. We extend to them our sincerest condolences.

THE OIL AND GAS INDUSTRY ANTITRUST ACT OF 2006

Mr. LEAHY. Mr. President, I am proud to join with Senators SPECTER, KOHL, DEWINE and others on a new bill, the Oil and Gas Industry Antitrust Act of 2006, which includes, as its centerpiece, our NOPEC legislation, which many of us have worked together on for years.

This measure—The No Oil Producing And Exporting Cartels Act, NOPEC—would make OPEC accountable for its anticompetitive behavior and allow the Justice Department to crack down on illegal price manipulation by oil cartels. It will allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. The tools this bill would provide to law enforcement agencies are necessary to immediately counter OPEC's anticompetitive practices, and these tools would help reduce gasoline prices now.

The Congress should pass this measure immediately instead of waiting until the price of gasoline at the pump is $4 a gallon. OPEC has America over a barrel, and we should fight back. If OPEC were simply a foreign business engaged in this type of behavior, it would already be subject to American antitrust law. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of this cartel's member nations.

It is time for the President to join the bipartisan majority in the Senate which already said ''NO'' to OPEC by passing NOPEC and by sending it to the other body, where it was killed.

The Senate has already passed this bill, which would make OPEC subject to our antitrust laws. In fact, the Judiciary Committee has approved the NOPEC bill three times. Regrettably, even though President Bush promised in 2000 that he would ''jawbone OPEC,'' the Bush administration and its friends in the House have scuttled the NOPEC bill and the direct and daily relief it would bring to millions of Americans.

In addition, this bill makes it unlawful to divert petroleum or natural gas products from their local market to a distant market with the primary intention of increasing prices or creating a shortage in a market. This solves a real problem where products are being shipped for sale in that market but are later diverted and sold for less in another market.

We have an obligation to address these and other issues caused by oil cartels and by greedy companies who have money—that they have extracted from the American people—to burn. That is why I am also pleased that the bill includes provisions to conduct several studies that address serious competition, information sharing, and other antitrust problem areas related to the oil and natural gas industries. The American people deserve answers, and this bill also provides a path to getting those answers.

Authorizing tough legal action against illegal oil price fixing, and taking that action without delay, is one thing we can do without additional obstruction or delay.

The artificial pricing scheme enforced by OPEC affects all of us, not the least of whom are hardworking Vermont farmers. The overall increase in fuel costs for an average Vermont farmer last year was 43 percent, meaning that each farmer is estimated to pay an additional $700 in fuel surcharges in 2006 alone. Vermonters know what the terrible consequences of these high prices can be: forcing many farmers to make unfair choices between running their farms or heating their homes. No one should be forced to make these choices, certainly not our hard-working farmers.

In summary, this bill will provide law enforcement with the tools necessary to fight OPEC's anticompetitive practices immediately, and help reduce gasoline prices now. I urge my colleagues to support this bill, and to say ''NO'' to OPEC as we have done in the past.

NOMINATION OF MICHAEL A. CHAGARES

Mr. MENENDEZ. Mr. President, I rise in strong support of the nomination of Michael A. Chagares to be a Circuit Judge on the U.S. Court of Appeals for the Third Circuit.

It is an honor that another person from my home State of New Jersey has

been called to serve this Nation by the administration. The confirmation of a judge to a lifetime appointment is a vital responsibility given to this body by the Constitution and one that I take very seriously.

Mr. Chagares has been nominated to replace the current Secretary of Homeland Security, Michael Chertoff, on the Third Circuit. No matter one's political persuasion, we all take pride in the honor that has been bestowed on a fellow New Jerseyan.

Mr. Chagares is a New Jersey native who graduated from Gettysburg College and Seton Hall School of Law, with honors. Upon graduation, he clerked for Judge Greenberg on the Third Circuit. Over the past 15 years, Mr. Chagares has served the public with distinction in the U.S. Attorney's Office for the District of New Jersey and has also worked in private practice.

In addition, he is a popular Professor of both appellate advocacy and civil trial practice at Seton Hall. I believe this popularity is a testament to his ability to both convey the essence of the subject matter and do it in a way that excites a new generation of lawyers.

The American Bar Association has rated Mr. Chagares as ''well qualified'' for the position that he has been nominated. It is a view that I share as well.

I am pleased that see that people of his quality are willing to serve our Nation in the administration of justice, and join Senator LAUTENBERG in commending him to the Senate.

Mr. President, I urge my colleagues to support the nomination of Mr. Chagares to be a judge on our Nation's Third Circuit Court of Appeals.

ADDITIONAL STATEMENTS

TRIBUTE TO LEE HUMPHREY AND COREY BREWER

• Mr. ALEXANDER. Mr. President, the University of Tennessee, Belmont University, and the University of Memphis men's basketball teams all deserve congratulations for qualifying for the men's NCAA tournament this year. The Lady Vols made it to the Sweet Sixteen in women's basketball for the 25th consecutive time. None of those teams made it all the way to the championship, but two Tennesseans who play for the University of Florida did. I want to congratulate them, especially since one is from my hometown, Maryville.

Lee Humphrey was Tennessee's Class AAA Mr. Basketball when he attended Maryville High School. He is the school's all-time leader in points and steals. His dad, Tony, a middle school teacher in Maryville, had the key to the gym. And on many nights, Lee and his dad would go to the gym and while Lee took shots his dad rebounded. Apparently, the practice paid off. Dick Vitale said that Lee was the ''X factor'' in the Final Four. In the championship game he scored 15 points, making 4 of 8 shots from the field. Coincidentally, the game was played in the current home stadium of Lee's boyhood idol, Peyton Manning.

Lee's teammate Corey Brewer from Portland, TN, was 1 of 24 seniors named nationwide as a 2004 McDonald's All-American player. He scored 29.4 points a game and averaged 12.8 rebounds his senior season at Portland High. He received a lot of honors that year, including being named grand marshal of Portland's Strawberry Festival. Corey has credited his success to hard work in practice and a childhood spent playing sports with his older brother Jason and Jason's friends. He is a role model who returns to Portland and talks to elementary school kids, urging them to study and warning about the dangers of drugs. He follows the lessons he learned from his mother, Glenda, a teacher.

Recruited for his tenacious defense as well as his scoring ability, Corey has been a big game player for the University of Florida all year. In the championship game, he scored 11 points and grabbed 7 rebounds to go along with 4 assists and 3 steals.

Mr. President, we Tennesseans are proud of our State's basketball teams. We want them to win. But we are also proud of our young scholar-athletes who play for other teams. They are Tennesseans, too, and we want them to know we are proud of their accomplishments.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 5:06 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 81. Joint resolution providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 82. Joint resolution providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. Concurrent resolution recognizing the benefits and importance of school-based music education, and for other purposes.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 355. Concurrent resolution recognizing the benefits and importance of school-based music education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6264. A communication from the Chairman, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Internet Communications'' ((11 CFR Parts 100, 110, and 114)(Notice 2006–8)) received on April 4, 2006; to the Committee on Rules and Administration.

EC–6265. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement and Report Concerning Advance Pricing Agreements'' (Announcement 2006–22) received on April 4, 2006; to the Committee on Finance.

EC–6266. A communication from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting, a report of the Department's activities during Calendar Year 2005 pursuant to the Equal Credit Opportunity Act; to the Committee on the Judiciary.

EC–6267. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedules of Controlled Substances: Exempt Anabolic Steroid Products'' (RIN1117–AA98) received on April 4, 2006; to the Committee on the Judiciary.

EC–6268. A communication from the Director, Office of Management Programs, Civil Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Minimum Qualifications for Annuity Brokers in Connection With Structured Settlements Entered Into by the United States'' (RIN1105–AA82) received on April 4, 2006; to the Committee on the Judiciary.

EC–6269. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Fiscal Year 2004 Superfund Five-Year Review Report to Congress; to the Committee on Environment and Public Works.

EC–6270. A communication from the Acting Director, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Oklahoma as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–6271. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled ''Audit of the Exchange Stabilization Fund's Fiscal Years 2005 and 2004 Financial Statements; to the Committee on Banking, Housing, and Urban Affairs.

EC–6272. A communication from the Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a report relative to the amount of acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6273. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Annual Surplus Property Report for Fiscal Year 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–6274. A communication from the Administrator, General Service Administration, transmitting, a report relative to prospectuses that support the Administration's Fiscal Year 2007 Leasing Program; to the Committee on Homeland Security and Governmental Affairs.

EC–6275. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Annual Sunshine Act Report for 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–6276. A communication from the Chief Executive Officer, NeighborWorks America, transmitting, pursuant to law, the Agency's Fiscal Year 2005 Annual Program Performance Report; to the Committee on Homeland Security and Governmental Affairs.

EC–6277. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to extend for two years, until September 30, 2008, the Department of Energy's excepted service authority, which expires on September 30, 2006; to the Committee on Energy and Natural Resources.

EC–6278. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to extend for two years the National Nuclear Security Administration's Facilities and Infrastructure Recapitalization Program; to the Committee on Energy and Natural Resources.

EC–6279. A communication from the Secretary of Energy, transmitting, a report of proposed legislation to increase the minor construction threshold for certain Department of Energy construction projects from $5,000,000 to $10,000,000; to the Committee on Energy and Natural Resources.

EC–6280. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil and Gas Lease Acreage Limitation Exemptions and Reinstatement of Oil and Gas Leases'' (RIN1004–AD83) received on April 4, 2006; to the Committee on Energy and Natural Resources.

EC–6281. A communication from the Assistant Secretary of the Army (Acquisition, Logistics and Technology), transmitting, pursuant to law, a report entitled ''Annual Status Report on the Disposal of Chemical Weapons and Materiel for Fiscal Year 2005''; to the Committee on Armed Services.

EC–6282. A communication from the Director, Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to the total cost for the planning, design, construction and installation of equipment for the renovation of Wedges 2 through 5 of the Pentagon; to the Committee on Armed Services.

EC–6283. A communication from the Acting General Counsel, Office of General Counsel, Department of Defense, transmitting, a report of legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2007; to the Committee on Armed Services.

EC–6284. A communication from the Acting General Counsel, Office of General Counsel, Department of Defense, transmitting, the report of a proposed National Defense Bill for Fiscal Year 2007; to the Committee on Armed Services.

EC–6285. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyraclostrobin; Pesticide Tolerances'' (FRL No. 7772–8) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6286. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Novaluron; Pesticide Tolerance'' (FRL No. 7756–8) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6287. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Emamectin; Pesticide Tolerance'' (FRL No. 7765–4) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6288. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''FD&C Blue No. 1 PEG Derivatives; Exemptions from the Requirement of a Tolerance'' (FRL No. 7765–1) received on April 4, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6289. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Administrator, received on April 4, 2006; to the Committee on Foreign Relations.

EC–6290. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the criteria the Department of State is using to determine appropriate adjustments in post differentials and danger pay allowances; to the Committee on Foreign Relations.

EC–6291. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Competitive Sourcing Activities Report for Fiscal Year 2005; to the Committee on Foreign Relations.

EC–6292. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the quarterly report of obligations and outlays of fiscal years 2004 and 2005 funds under the President's Emergency Plan for AIDS Relief through September 30, 2005; to the Committee on Foreign Relations.

EC–6293. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement involving the manufacture of significant military equipment and the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC–6294. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed retransfer of defense articles or defense services involving major defense equipment in the amount of $14,000,000 or more (TOW missiles to Egypt from the Royal Netherlands Army); to the Committee on Foreign Relations.

EC–6295. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, reports prepared by the Department of State and the National Security Council on progress toward a negotiated solution of the Cyprus question covering the periods December 1, 2005 through January 31, 2006; to the Committee on Foreign Relations.

EC–6296. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Twenty-First Annual Report of Accomplishments under the Airport Improvement Program for Fiscal Year 2004; to the Committee on Commerce, Science, and Transportation.

EC–6297. A communication from the Acting Chairman, National Transportation Safety Board, transmitting, the report of proposed legislation entitled ''National Transportation Safety Board Amendments Act of 2006'' received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6298. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, Amtrak, transmitting, pursuant to law, Amtrak's Grant and Legislative Request for Fiscal Year 2007; to the Committee on Commerce, Science, and Transportation.

EC–6299. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 030706A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6300. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska'' (I.D. No. 030106A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6301. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock from the Aleutian Islands Subarea to the Bering Sea Subarea'' (I.D. No. 030306A) received on April 4, 2006; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 4939. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–230).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MENENDEZ:

S. 2508. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SUNUNU (for himself and Mr. JOHNSON):

S. 2509. A bill to authorize the issuance of charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the regulation and supervision of National Insurers and National Agencies, to provide for policyholder protections in the event of an insolvency or impairment of a National Insurer, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. REID, Mr. BAUCUS, Mr. KENNEDY, Mr. KERRY, Mr. BINGAMAN, Mr. CARPER, Mr. DAYTON, Mr. HARKIN, Mr. KOHL, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. LEAHY, Ms. MIKULSKI, Mr. PRYOR, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. JOHNSON, Mr. MENENDEZ, Mr. ROCKEFELLER, and Mrs. BOXER):

S. 2510. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 2511. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. DEMINT:

S. 2512. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2513. A bill to suspend temporarily the duty on Spiroxamine; to the Committee on Finance.

By Mr. TALENT:

S. 2514. A bill to reduce temporarily the duty on Bronate Advanced; to the Committee on Finance.

By Mr. TALENT:

S. 2515. A bill to suspend temporarily the duty on Cyclanilide technical; to the Committee on Finance.

By Mr. TALENT:

S. 2516. A bill to suspend temporarily the duty on Beta-cyfluthrin; to the Committee on Finance.

By Mr. TALENT:

S. 2517. A bill to suspend temporarily the duty on 4-Chlorobenzaldehyde; to the Committee on Finance.

By Mr. TALENT:

S. 2518. A bill to modify the article description relating to 2-Chlorobenzyl chloride, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2519. A bill to suspend temporarily the duty on Spiromesifen; to the Committee on Finance.

By Mr. TALENT:

S. 2520. A bill to suspend temporarily the duty on Thiacloprid; to the Committee on Finance.

By Mr. TALENT:

S. 2521. A bill to suspend temporarily the duty on Pyrimethanil; to the Committee on Finance.

By Mr. TALENT:

S. 2522. A bill to extend the temporary suspension of duty with respect to Iprodione, and for other purposes; to the Committee on Finance.

By Mr. TALENT:

S. 2523. A bill to reduce temporarily the duty on Trifloxystrobin; to the Committee on Finance.

By Mr. TALENT:

S. 2524. A bill to suspend temporarily the duty on NAHP; to the Committee on Finance.

By Mr. TALENT:

S. 2525. A bill to suspend temporarily the duty on Foramsulfuron; to the Committee on Finance.

By Mr. TALENT:

S. 2526. A bill to extend the temporary suspension of duty with respect to Ethoprop; to the Committee on Finance.

By Mr. TALENT:

S. 2527. A bill to suspend temporarily the duty on Fenamidone; to the Committee on Finance.

By Mr. TALENT:

S. 2528. A bill to suspend temporarily the duty on Alkylketone; to the Committee on Finance.

By Mr. TALENT:

S. 2529. A bill to suspend temporarily the duty on Oxadiazon; to the Committee on Finance.

By Mr. TALENT:

S. 2530. A bill to suspend temporarily the duty on 4-Methyl-5-n-propoxy-2,4-dihydro-1,2,4-triazol-3-one; to the Committee on Finance.

By Mr. TALENT:

S. 2531. A bill to extend the temporary suspension of duty with respect to Fosetyl-Al; to the Committee on Finance.

By Mr. TALENT:

S. 2532. A bill to reduce temporarily the duty on Cyclopropane-1,1-dicarboxylic acid, dimethyl ester; to the Committee on Finance.

By Mr. TALENT:

S. 2533. A bill to suspend temporarily the duty on Phosphorus Thiochloride; to the Committee on Finance.

By Mr. TALENT:

S. 2534. A bill to suspend temporarily the duty on 2,4-Dichloroaniline; to the Committee on Finance.

By Mr. TALENT:

S. 2535. A bill to suspend temporarily the duty on Mixtures of (+-)-(cis and trans)-1[[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]-methyl]-1H-1,2,4-triazole; to the Committee on Finance.

By Mr. TALENT:

S. 2536. A bill to suspend temporarily the duty on 2-Acetylbutyrolactone; to the Committee on Finance.

By Mr. TALENT:

S. 2537. A bill to suspend temporarily the duty on Cyfluthrin (Baythroid); to the Committee on Finance.

By Mr. TALENT:

S. 2538. A bill to suspend temporarily the duty on Bromoxynil Octanoate Tech; to the Committee on Finance.

By Mr. TALENT:

S. 2539. A bill to suspend temporarily the duty on Bromoxynil Meo; to the Committee on Finance.

By Mr. TALENT:

S. 2540. A bill to suspend temporarily the duty on Deltamethrin; to the Committee on Finance.

By Mr. TALENT:

S. 2541. A bill to suspend temporarily the duty on Quinoline, 6 ethoxy 1,2 dihydro 2,2,4 trimethyl; to the Committee on Finance.

By Mr. TALENT:

S. 2542. A bill to suspend temporarily the duty on tricholorobenzene; to the Committee on Finance.

By Mr. TALENT:

S. 2543. A bill to suspend temporarily the duty on 1,3-Dibromo-5-dimethyl-hydantoin; to the Committee on Finance.

By Mr. TALENT:

S. 2544. A bill to suspend temporarily the duty on MCPA; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. VOINOVICH, Mrs. CLINTON, and Mr. SCHUMER):

S. 2545. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TALENT:

S. 2546. A bill to extend the temporary suspension of duty with respect to Flufenacet (FOE hydroxy); to the Committee on Finance.

By Mr. ALLARD:

S. 2547. A bill to authorize a major medical facility project for the Department of Veterans Affairs at Denver, Colorado; to the Committee on Veterans' Affairs.

By Mr. STEVENS (for himself and Mr. LAUTENBERG):

S. 2548. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEMINT:

S. 2549. A bill to amend the Internal Revenue Code of 1986 to expand the use of health savings accounts for the payment of health insurance premiums for high deductible health plans purchased in the individual market; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. BINGAMAN):

S. 2550. A bill to provide for direct access to electronic tax return filing, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2551. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Ms. CANTWELL):

S. 2552. A bill to amend the Omnibus Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. KENNEDY, Mr. LEAHY, and Mr. FEINGOLD):

S. 2553. A bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENSIGN (for himself and Mr. DEWINE):

S. 2554. A bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2555. A bill to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLARD:

S. Res. 424. A resolution congratulating and commending the members of the United States Olympic and Paralympic Teams, and the United States Olympic Committee, for their success and inspired leadership; to the Committee on Commerce, Science, and Transportation.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. Res. 425. A resolution to commend the University of Maryland women's basketball team for winning the 2006 National Collegiate Athletic Association Division I National Basketball Championship; considered and agreed to.

By Mr. SPECTER (for himself and Mr. FEINGOLD):

S. Res. 426. A resolution supporting the goals and ideals of National Campus Safety Awareness Month; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CHAFEE, Ms. MURKOWSKI, Mr. VITTER, Mr. THUNE, Mr. DEMINT, Mr. ISAKSON, Mr. JEFFORDS, Mr. BAUCUS, Mr. LIEBERMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, and Mr. REID):

S. Res. 427. A resolution commemorating the 50th Anniversary of the Interstate System; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 428. A resolution congratulating the University of Wisconsin men's cross country team for winning the 2005 National Collegiate Athletic Association Division I Cross Country Championship; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 429. A resolution congratulating the University of Wisconsin women's hockey team for winning the 2006 National Collegiate Athletic Association Division I Hockey Championship; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. Res. 430. A resolution commending the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship; considered and agreed to.

By Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, Mr. CRAPO, Mr. BIDEN, Mr. BYRD, Mr. FEINGOLD, Mr. REED, Ms. CANTWELL, Mr. LEVIN, Mr. LIEBERMAN, Mr. DODD, and Ms. SNOWE):

S. Res. 431. A resolution designating May 11, 2006, as ''Endangered Species Day'', and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide; considered and agreed to.

By Mr. FRIST:

S. Res. 432. A resolution to authorize testimony of a Member of the Senate in E.M. Gunderson v. Neil G. Galatz; considered and agreed to.

By Mr. DURBIN (for himself, Mr. ENSIGN, and Mr. LAUTENBERG):

S. Res. 433. A resolution honoring The American Society for the Prevention of Cruelty to Animals for the 140 years of service that it has provided to the citizens of the United States and their animals; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. JOHNSON, Mrs. BOXER, Mr. MENENDEZ, Ms. LANDRIEU, and Mrs. FEINSTEIN):

S. Con. Res. 86. A concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of the members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Rules and Administration.

By Mr. BIDEN (for himself and Mr. SMITH):

S. Con. Res. 87. A concurrent resolution expressing the sense of Congress that United States intellectual property rights must be protected globally; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 440

At the request of Mr. BUNNING, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 663

At the request of Mr. BINGAMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 663, a bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 886

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 886, a bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes.

S. 1370

At the request of Mr. DORGAN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1370, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1912

At the request of Mr. LIEBERMAN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1912, a bill to establish a global network for avian influenza surveillance among wild birds nationally and internationally to combat the growing threat of bird flu, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 1955

At the request of Mr. ENZI, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

S. 2140

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2185

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2185, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 2200

At the request of Mr. FRIST, his name was added as a cosponsor of S. 2200, a bill to establish a United States-Poland parliamentary youth exchange program, and for other purposes.

S. 2250

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2322

At the request of Mr. THUNE, his name was added as a cosponsor of S. 2322, a bill to amend the Public Health Service Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 2361

At the request of Mr. DORGAN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2361, a bill to improve Federal contracting and procurement by eliminating fraud and abuse and improving competition in contracting and procurement and by enhancing administration of Federal contracting personnel, and for other purposes.

S. 2370

At the request of Mr. MCCONNELL, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2370, a bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

S. 2467

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2467, a bill to enhance and improve the trade relations of the United States by strengthening United States trade enforcement efforts and encouraging United States trading partners to adhere to the rules and norms of international trade, and for other purposes.

S. 2493

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2493, a bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes.

S. CON. RES. 71

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. CON. RES. 84

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. RES. 313

At the request of Ms. CANTWELL, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

AMENDMENT NO. 3214

At the request of Mr. FRIST, his name was added as a cosponsor of amendment No. 3214 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3225

At the request of Ms. LANDRIEU, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3225 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3232

At the request of Mr. CHAMBLISS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3232 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MENENDEZ:

S. 2508. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. MENENDEZ. Mr. President, as we approach May, the National Month to Prevent Teen Pregnancy, I rise to introduce the Teen Pregnancy Prevention, Responsibility and Opportunity Act. This legislation will establish a comprehensive program for reducing adolescent pregnancy through education and information programs, as well as positive activities and role models both in and out of school.

As parents, there is nothing more important than protecting our children and giving them a future filled with hope and opportunity. As leaders, we also have a responsibility to our young people—to provide resources for communities, parents, and children to help them achieve those goals. There are many ways we can provide parents with the tools they need to help kids make responsible decisions and avoid destructive behavior such as drug and alcohol abuse or sexual activity which can lead to unintended pregnancies.

The U.S. continues to have the highest teen pregnancy rate and teen birth rate in the Western industrialized world. In a fiscal context, it costs the U.S. at least $7 billion annually, and in a human context, this impacts one third of all teenage girls. It is time to do something about it.

While we have done a good job of progressively decreasing teen pregnancy, we can do much better.

With the sons of teen mothers more likely to end up in prison, and the daughters of teen mothers more likely to end up teen mothers themselves, we must act now to break this problematic cycle.

Our schools, community and faith-based organizations need access to funds to teach age-appropriate, factually and medically accurate, and scientifically-based family life education.

We need programs that encourage teens to delay sexual activity.

We need to provide services and interventions for sexually active teens.

We need to educate both young men and women about the responsibilities and pressures that come along with parenting.

We need to help parents communicate with teens about sexuality.

We need to teach young people responsible decision making.

And, we need to fund after school programs that will enrich their education, replace destructive behavior time with constructive activities, and offer character and counseling services.

We know that after-school programs reduce risky adolescent behavior by involving teens in positive activities that also provide positive life skills. Teenage girls who play sports, for instance, are more likely to wait to become sexually active, and to have fewer partners. They are consequently less likely to become pregnant.

Let us join together to recommit ourselves to continuing to decrease the incidence of teen pregnancy, and recommit ourselves to offering family life education and positive after school programs that will foster responsible young adults.

The time is now to invest in our teens. As all parents know, we place overwhelming pressure on ourselves to make sure we raise our children well. Decisions we make—and they make—will affect them for the rest of their lives. We cannot afford to let the doors close on them. Instead we must continue to open the door of opportunity. I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD, as follows:

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teen Pregnancy Prevention, Responsibility, and Opportunity Act of 2006''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) The United States has the highest teen-pregnancy rate and teen birth rate in the western industrialized world, costing the United States not less than $7,000,000,000 annually.

(2) About 1 out of 3 of all young women in the United States becomes pregnant before she reaches the age of 20.

(3) Teen pregnancy has serious consequences for young women, their children, and communities as a whole. Too-early childbearing increases the likelihood that a young woman will drop out of high school and that she and her child will live in poverty.

(4) Statistically, the sons of teen mothers are more likely to end up in prison. The daughters of teen mothers are more likely to end up teen mothers too.

(5) Teens that grow up in disadvantaged economical, social, and familial circumstances are more likely to engage in risky behavior and have a child during adolescence.

(6) Teens with strong emotional attachments to their parents are more likely to become sexually active at a later age. 7 out of 10 teens say that they are prepared to listen to things parents thought they were not ready to hear.

(7) 78 percent of white and 70 percent of African American teenagers report that lack of communication between a teenage girl and her parents is frequently a reason a teenage girl has a baby.

(8) One study found that the likelihood of teens having sex for the first time increased with the number of unsupervised hours teens have during a week.

(9) After-school programs reduce teen risky behavior by involving teens in activities that provide alternatives to sex. Teenage girls who play sports, for instance, are more likely to delay sex and have fewer partners and less likely to become pregnant.

(10) After-school programs help prevent teen pregnancy by advancing good decision-making skills and providing teens health education and positive role models in a supervised setting.

(11) 8 in 10 girls and 6 in 10 boys report that they wish they had waited until they were older to have sex.

SEC. 3. EDUCATION PROGRAM FOR PREVENTING TEEN PREGNANCIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') may make grants to local educational agencies, State and local public health agencies, and nonprofit private entities for the purpose of carrying out projects to provide education on preventing teen pregnancies.

(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to applicants that will carry out the projects under such subsection in communities for which the rate of teen pregnancy is significantly above the average rate [in the United States?] of such pregnancies.

(c) CERTAIN REQUIREMENTS.—A grant may be made under subsection (a) only if the applicant for the grant meets the following conditions with respect to the project involved:

(1) The applicant agrees that information provided by the project on pregnancy prevention will be age-appropriate, factually and medically accurate and complete, and scientifically-based.

(2) The applicant agrees that the project will give priority to preventing teen pregnancies by—

(A) encouraging teens to delay sexual activity;

(B) providing educational services and interventions for sexually active teens or teens at risk of becoming sexually active;

(C) educating both young men and women about the responsibilities and pressures that come along with parenting;

(D) helping parents communicate with teens about sexuality; or

(E) teaching young people responsible decision-making.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the project to be carried out under subsection (a) by an applicant, a grant may be made under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(e) MAINTENANCE OF EFFORT.—With respect to the activities for which a grant under subsection (a) is authorized to be expended, such a grant may be made for a fiscal year only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the applicant for the fiscal year preceding the first fiscal year for which the applicant receives such a grant.

(f) EVALUATION OF PROJECTS.—The Secretary shall establish criteria for the evaluation of projects under subsection (a). A grant may be made under such subsection only if the applicant involved—

(1) agrees to conduct evaluations of the project in accordance with such criteria;

(2) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(3) submits to the Secretary, in the application under subsection (g), a plan for conducting the evaluations.

(g) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under subsections (c) through (f) and the plan under subsection (f)(3), as the Secretary determines to be necessary to carry out this section.

(h) REPORT TO CONGRESS.—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which projects under subsection (a) have been successful in reducing the rate of teen pregnancies in the communities in which the projects have been carried out.

(i) DEFINITIONS.—In this section:

(1) AGE-APPROPRIATE.—The term ''age-appropriate'', with respect to information on pregnancy prevention, means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(2) FACTUALLY AND MEDICALLY ACCURATE AND COMPLETE.—The term ''factually and medically accurate and complete'' means verified or supported by the weight of research conducted in compliance with accepted scientific methods and—

(A) published in peer-reviewed journals, where applicable; or

(B) comprising information that leading professional organizations and agencies with relevant expertise in the field recognize as accurate, objective, and complete.

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years [2007 through 2011].

SEC. 4. REAUTHORIZATION OF CERTAIN AFTER-SCHOOL PROGRAMS.

(a) 21ST CENTURY COMMUNITY LEARNING CENTERS.—Section 4206 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7176) is amended—

(1) in paragraph (5), by striking ''$2,250,000,000'' and inserting ''$2,500,000,000''; and

(2) in paragraph (6), by striking ''$2,500,000,000'' and inserting ''$2,750,000,000''.

(b) CAROL M. WHITE PHYSICAL EDUCATION PROGRAM.—Section 5401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241) is amended—

(1) by striking ''There are'' and inserting ''(a) IN GENERAL.—There are''; and

(2) by adding at the end the following:

''(b) PHYSICAL EDUCATION.—In addition to the amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated $73,000,000 for each of fiscal years [2007 and 2008] to carry out subpart 10.''.

(c) FEDERAL TRIO PROGRAMS.—Section 402A(f) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(f)) is amended by striking ''$700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years'' and inserting ''$883,000,000 for fiscal year [2007] and such sums as may be necessary for each of the 5 succeeding fiscal years''.

(d) GEARUP.—Section 404H of the Higher Education Act of 1965 (20 U.S.C. 1070a–28) is amended by striking ''$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years'' and inserting ''$325,000,000 for fiscal year [2007] and such sums as may be necessary for each of the 5 succeeding fiscal years''.

SEC. 5. DEMONSTRATION GRANTS TO ENCOURAGE CREATIVE APPROACHES TO TEEN PREGNANCY PREVENTION AND AFTER-SCHOOL PROGRAMS.

(a) IN GENERAL.—The Secretary may make grants to public or nonprofit private entities for the purpose of assisting the entities in demonstrating innovative approaches to prevent teen pregnancies.

(b) CERTAIN APPROACHES.—Approaches under subsection (a) may include the following:

(1) Encouraging teen-driven approaches to pregnancy prevention.

(2) Exposing teens to realistic simulations of the physical, emotional, and financial toll of pregnancy and parenting.

(3) Facilitating communication between parents and children, especially programs that have been evaluated and proven effective.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the project to be carried out under subsection (a) by an applicant, a grant may be made under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant).

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) EVALUATION OF PROJECTS.—The Secretary shall establish criteria for the evaluation of projects under subsection (a). A grant may be made under such subsection only if the applicant involved—

(1) agrees to conduct evaluations of the project in accordance with such criteria;

(2) agrees to submit to the Secretary such reports describing the results of the evaluations as the Secretary determines to be appropriate; and

(3) submits to the Secretary, in the application under subsection (e), a plan for conducting the evaluations.

(e) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information, including the agreements under subsections (c) and (d) and the plan under subsection (d)(3), as the Secretary determines to be necessary to carry out this section.

(f) REPORT TO CONGRESS.—Not later than October 1, 2011, the Secretary shall submit to Congress a report describing the extent to which projects under subsection (a) have been successful in reducing the rate of teen pregnancies in the communities in which the projects have been carried out. Such reports shall describe the various approaches used under subsection (a) and the effectiveness of each of the approaches.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years [2007 through 2011].

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. REID, Mr. BAUCUS, Mr. KENNEDY, Mr. KERRY, Mr. BINGAMAN, Mr. CARPER, Mr. DAYTON, Mr. HARKIN, Mr. KOHL, Mr. NELSON of Florida, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. LEAHY, Ms. MIKULSKI, Mr. PRYOR, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. JOHNSON, Mr. MENENDEZ, Mr. ROCKEFELLER, and Mrs. BOXER.

S. 2510. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Employers Health Benefits Program Act of 2006''.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act, the terms ''member of family'', ''health benefits plan'', ''carrier'', ''employee organizations'', and ''dependent'' have the meanings given such terms in section 8901 of title 5, United States Code.

(b) OTHER TERMS.—In this Act:

(1) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

(2) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers who employed an average of at least 1 but not more than 100 employees on business days during the year preceding the date of application. Such term shall not include the Federal Government.

(3) HEALTH STATUS-RELATED FACTOR.—The term ''health status-related factor'' has the meaning given such term in section 2791(d)(9) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(9)).

(4) OFFICE.—The term ''Office'' means the Office of Personnel Management.

(5) PARTICIPATING EMPLOYER.—The term ''participating employer'' means an employer that—

(A) elects to provide health insurance coverage under this Act to its employees; and

(B) is not offering other comprehensive health insurance coverage to such employees.

(c) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of subsection (b)(2):

(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (b)(2) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer's first full year.

(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(d) WAIVER AND CONTINUATION OF PARTICIPATION.—

(1) WAIVER.—The Office may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this Act on a case by case basis if the Office determines that such employer makes a compelling case for such a waiver. In making determinations under this paragraph, the Office may consider the effects of the employment of temporary and seasonal workers and other factors.

(2) CONTINUATION OF PARTICIPATION.—An employer participating in the program under this Act that experiences an increase in the number of employees so that such employer has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

(e) TREATMENT OF HEALTH BENEFITS PLAN AS GROUP HEALTH PLAN.—A health benefits plan offered under this Act shall be treated as a group health plan for purposes of applying the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) except to the extent that a provision of this Act expressly provides otherwise.

SEC. 3. HEALTH INSURANCE COVERAGE FOR NON-FEDERAL EMPLOYEES.

(a) ADMINISTRATION.—The Office shall administer a health insurance program for non-Federal employees and employers in accordance with this Act.

(b) REGULATIONS.—Except as provided under this Act, the Office shall prescribe regulations to apply the provisions of chapter 89 of title 5, United States Code, to the greatest extent practicable to participating carriers, employers, and employees covered under this Act.

(c) LIMITATIONS.—In no event shall the enactment of this Act result in—

(1) any increase in the level of individual or Federal Government contributions required under chapter 89 of title 5, United States Code, including copayments or deductibles;

(2) any decrease in the types of benefits offered under such chapter 89; or

(3) any other change that would adversely affect the coverage afforded under such chapter 89 to employees and annuitants and members of family under that chapter.

(d) ENROLLMENT.—The Office shall develop methods to facilitate enrollment under this Act, including the use of the Internet.

(e) CONTRACTS FOR ADMINISTRATION.—The Office may enter into contracts for the performance of appropriate administrative functions under this Act.

(f) SEPARATE RISK POOL.—In the administration of this Act, the Office shall ensure that covered employees under this Act are in a risk pool that is separate from the risk pool maintained for covered individuals under chapter 89 of title 5, United States Code.

(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require a carrier that is participating in the program under chapter 89 of title 5, United States Code, to provide health benefits plan coverage under this Act.

SEC. 4. CONTRACT REQUIREMENT.

(a) IN GENERAL.—The Office may enter into contracts with qualified carriers offering health benefits plans of the type described in section 8903 or 8903a of title 5, United States Code, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health insurance coverage to employees of participating employers under this Act. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Office shall ensure that health benefits coverage is provided for individuals only, individuals with one or more children, married individuals without children, and married individuals with one or more children.

(b) ELIGIBILITY.—A carrier shall be eligible to enter into a contract under subsection (a) if such carrier—

(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

(2) meets such other requirements as determined appropriate by the Office.

(c) STATEMENT OF BENEFITS.—

(1) IN GENERAL.—Each contract under this Act shall contain a detailed statement of

benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Office considers necessary or desirable.

(2) ENSURING A RANGE OF PLANS.—The Office shall ensure that a range of health benefits plans are available to participating employers under this Act.

(3) PARTICIPATING PLANS.—The Office shall not prohibit the offering of any health benefits plan to a participating employer if such plan is eligible to participate in the Federal Employees Health Benefits Program.

(4) NATIONWIDE PLAN.—With respect to all nationwide plans, the Office shall develop a benefit package that shall be offered in the case of a contract for a health benefit plan that is to be offered on a nationwide basis that meets all State benefit mandates.

(d) STANDARDS.—The minimum standards prescribed for health benefits plans under section 8902(e) of title 5, United States Code, and for carriers offering plans, shall apply to plans and carriers under this Act. Approval of a plan may be withdrawn by the Office only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(e) CONVERSION.—

(1) IN GENERAL.—A contract may not be made or a plan approved under this section if the carrier under such contract or plan does not offer to each enrollee whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which the individual may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An enrollee who exercises this option shall pay the full periodic charges of the nongroup contract.

(2) NONCANCELLABLE.—The benefits and coverage made available under paragraph (1) may not be canceled by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(f) REQUIREMENT OF PAYMENT FOR OR PROVISION OF HEALTH SERVICE.—Each contract entered into under this Act shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Office finds that the employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of title 5, United States Code, is entitled thereto under the terms of the contract.

SEC. 5. ELIGIBILITY.

An individual shall be eligible to enroll in a plan under this Act if such individual—

(1) is an employee of an employer described in section 2(b)(2), or is a self employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986; and

(2) is not otherwise enrolled or eligible for enrollment in a plan under chapter 89 of title 5, United States Code.

SEC. 6. ALTERNATIVE CONDITIONS TO FEDERAL EMPLOYEE PLANS.

(a) TREATMENT OF EMPLOYEE.—For purposes of enrollment in a health benefits plan under this Act, an individual who had coverage under a health insurance plan and is not a qualified beneficiary as defined under section 4980B(g)(1) of the Internal Revenue Code of 1986 shall be treated in a similar manner as an individual who begins employment as an employee under chapter 89 of title 5, United States Code.

(b) PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Each contract under this Act may include a preexisting condition exclusion as defined under section 9801(b)(1) of the Internal Revenue Code of 1986.

(2) EXCLUSION PERIOD.—A preexisting condition exclusion under this subsection shall provide for coverage of a preexisting condition to begin not later than 6 months after the date on which the coverage of the individual under a health benefits plan commences, reduced by the aggregate 1 day for each day that the individual was covered under a health insurance plan immediately preceding the date the individual submitted an application for coverage under this Act. This provision shall be applied notwithstanding the applicable provision for the reduction of the exclusion period provided for in section 701(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(a)(3)).

(c) RATES AND PREMIUMS.—

(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this Act—

(A) shall be determined in accordance with this subsection;

(B) may be annually adjusted subject to paragraph (3);

(C) shall be negotiated in the same manner as rates and premiums are negotiated under such chapter 89; and

(D) shall be adjusted to cover the administrative costs of the Office under this Act.

(2) DETERMINATIONS.—In determining rates and premiums under this Act, the following provisions shall apply:

(A) IN GENERAL.—A carrier that enters into a contract under this Act shall determine that amount of premiums to assess for coverage under a health benefits plan based on an community rate that may be annually adjusted—

(i) for the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area and the carrier provides evidence of geographic variation in cost of services;

(ii) based on whether such coverage is for an individual, two adults, one adult and one or more children, or a family; and

(iii) based on the age of covered individuals (subject to subparagraph (C)).

(B) LIMITATION.—Premium rates charged for coverage under this Act shall not vary based on health-status related factors, gender, class of business, or claims experience

(C) AGE ADJUSTMENTS.—

(i) IN GENERAL.—With respect to subparagraph (A)(iii), in making adjustments based on age, the Office shall establish no more than 5 age brackets to be used by the carrier in establishing rates. The rates for any age bracket may not vary by more than 50 percent above or below the community rate on the basis of attained age. Age-related premiums may not vary within age brackets.

(ii) AGE 65 AND OLDER.—With respect to subparagraph (A)(iii), a carrier may develop separate rates for covered individuals who are 65 years of age or older for whom medicare is the primary payor for health benefits coverage which is not covered under medicare.

(3) READJUSTMENTS.—Any readjustment in rates charged or premiums paid for a health benefits plan under this Act shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Office, is consistent with the practice of the Office for the Federal Employees Health Benefits Program.

(d) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this Act terminates the enrollment, the individual shall not be eligible for reenrollment until the first open enrollment period following the expiration of 6 months after the date of such termination.

(f) CONTINUED APPLICABILITY OF STATE LAW.—

(1) HEALTH INSURANCE OR PLANS.—

(A) PLANS.—With respect to a contract entered into under this Act under which a carrier will offer health benefits plan coverage, State mandated benefit laws in effect in the State in which the plan is offered shall continue to apply.

(B) RATING RULES.—The rating requirements under subparagraphs (A) and (B) of subsection (c)(2) shall supercede State rating rules for qualified plans under this Act, except with respect to States that provide a rating variance with respect to age that is less than the Federal limit or that provide for some form of community rating.

(2) LIMITATION.—Nothing in this subsection shall be construed to preempt—

(A) any State or local law or regulation except those laws and regulations described in subparagraph (B) of paragraph (1);

(B) any State grievance, claims, and appeals procedure law, except to the extent that such law is preempted under section 514 of the Employee Retirement Income Security Act of 1974; and

(C) State network adequacy laws.

(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the application of the service-charge system used by the Office for determining profits for participating carriers under chapter 89 of title 5, United States Code.

SEC. 7. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH ADJUSTMENTS FOR RISK.

(a) APPLICATION OF RISK CORRIDORS.—

(1) IN GENERAL.—This section shall only apply to carriers with respect to health benefits plans offered under this Act during any of calendar years 2007 through 2009.

(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a carrier that offers a health benefits plan under this Act in any of calendar years 2007 through 2009, the carrier shall notify the Office, before such date in the succeeding year as the Office specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term ''allowable costs'' means, with respect to a health benefits plan offered by a carrier under this Act, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

(b) ADJUSTMENT OF PAYMENT.—

(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier of an amount equal to 75 percent of the difference between such allowable costs and 103 percent of such target amount.

(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 108

percent of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier in an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the carrier shall be required to pay into the contingency reserve fund maintained under section 8909(b)(2) of title 5, United States Code, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the carrier shall be required to pay into the stabilization fund under section 8909(b)(2) of title 5, United States Code, an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

(4) TARGET AMOUNT DESCRIBED.—

(A) IN GENERAL.—For purposes of this subsection, the term ''target amount'' means, with respect to a health benefits plan offered by a carrier under this Act in any of calendar years 2007 through 2011, an amount equal to—

(i) the total of the monthly premiums estimated by the carrier and approved by the Office to be paid for enrollees in the plan under this Act for the calendar year involved; reduced by

(ii) the amount of administrative expenses that the carrier estimates, and the Office approves, will be incurred by the carrier with respect to the plan for such calendar year.

(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2006, and each December 31 thereafter through calendar year 2010, a carrier shall submit to the Office a description of the target amount for such carrier with respect to health benefits plans provided by the carrier under this Act.

(c) DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—Each contract under this Act shall provide—

(A) that a carrier offering a health benefits plan under this Act shall provide the Office with such information as the Office determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

(B) that the Office has the right to inspect and audit any books and records of the organization that pertain to the information regarding costs provided to the Office under such subsections.

(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by officers, employees, and contractors of the Office only for the purposes of, and to the extent necessary in, carrying out this section.

SEC. 8. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH REINSURANCE.

(a) ESTABLISHMENT.—The Office shall establish a reinsurance fund to provide payments to carriers that experience one or more catastrophic claims during a year for health benefits provided to individuals enrolled in a health benefits plan under this Act.

(b) ELIGIBILITY FOR PAYMENTS.—To be eligible for a payment from the reinsurance fund for a plan year, a carrier under this Act shall submit to the Office an application that contains—

(1) a certification by the carrier that the carrier paid for at least one episode of care during the year for covered health benefits for an individual in an amount that is in excess of $50,000; and

(2) such other information determined appropriate by the Office.

(c) PAYMENT.—

(1) IN GENERAL.—The amount of a payment from the reinsurance fund to a carrier under this section for a catastrophic episode of care shall be determined by the Office but shall not exceed an amount equal to 80 percent of the applicable catastrophic claim amount.

(2) APPLICABLE CATASTROPHIC CLAIM AMOUNT.—For purposes of paragraph (1), the applicable catastrophic episode of care amount shall be equal to the difference between—

(A) the amount of the catastrophic claim; and

(B) $50,000.

(3) LIMITATION.—In determining the amount of a payment under paragraph (1), if the amount of the catastrophic claim exceeds the amount that would be paid for the healthcare items or services involved under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the Office shall use the amount that would be paid under such title XVIII for purposes of paragraph (2)(A).

(d) DEFINITION.—In this section, the term ''catastrophic claim'' means a claim submitted to a carrier, by or on behalf of an enrollee in a health benefits plan under this Act, that is in excess of $50,000.

(e) TERMINATION OF FUND.—The reinsurance fund established under subsection (a) shall terminate on the date that is 2 years after the date on which the first contract period becomes effective under this Act.

SEC. 9. CONTINGENCY RESERVE FUND.

Beginning on October 1, 2010, the Office may use amounts appropriated under section 14(a) that remain unobligated to establish a contingency reserve fund to provide assistance to carriers offering health benefits plans under this Act that experience unanticipated financial hardships (as determined by the Office).

SEC. 10. EMPLOYER PARTICIPATION.

(a) REGULATIONS.—The Office shall prescribe regulations providing for employer participation under this Act, including the offering of health benefits plans under this Act to employees.

(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan under this Act.

(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan that—

(A) meets the requirements described in section 4(a); and

(B) is offered only through the enrollment process established by the Office under section 3.

(3) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

(B) DEFINITION.—In subparagraph (A), the term ''supplementary coverage'' means benefits described as ''excepted benefits'' under section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91(c)).

(c) RULE OF CONSTRUCTION.—Except as provided in section 15, nothing in this Act shall be construed to require that an employer make premium contributions on behalf of employees.

SEC. 11. ADMINISTRATION THROUGH REGIONAL ADMINISTRATIVE ENTITIES.

(a) IN GENERAL.—In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for participating employers and health care providers and other individuals and entities providing services to such employers, the Office is authorized to enter into contracts with eligible entities to perform, on a regional basis, one or more of the following:

(1) Collect and maintain all information relating to individuals, families, and employers participating in the program under this Act in the region served.

(2) Receive, disburse, and account for payments of premiums to participating employers by individuals in the region served, and for payments by participating employers to carriers.

(3) Serve as a channel of communication between carriers, participating employers, and individuals relating to the administration of this Act.

(4) Otherwise carry out such activities for the administration of this Act, in such manner, as may be provided for in the contract entered into under this section.

(5) The processing of grievances and appeals.

(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Office an application at such time, in such manner, and containing such information as the Office may require.

(c) PROCESS.—

(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a bi-annual basis.

(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Office finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Office finds pertinent.

(3) PUBLICATION OF STANDARDS AND CRITERIA.—The Office shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Office shall provide for a system to measure an entity's performance of responsibilities.

(4) TERM.—Each contract under this section shall be for a term of at least 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Office may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Office may provide in regulations) if the Office finds that the entity has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the program established by this Act.

(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

(1) a description of the duties of the contracting entity;

(2) an assurance that the entity will furnish to the Office such timely information and reports as the Office determines appropriate;

(3) an assurance that the entity will maintain such records and afford such access thereto as the Office finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act;

(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Office may require; and

(5) such other terms and conditions not inconsistent with this section as the Office may find necessary or appropriate.

SEC. 12. COORDINATION WITH SOCIAL SECURITY BENEFITS.

Benefits under this Act shall, with respect to an individual who is entitled to benefits under part A of title XVIII of the Social Security Act, be offered (for use in coordination with those medicare benefits) to the same extent and in the same manner as if coverage were under chapter 89 of title 5, United States Code.

SEC. 13. PUBLIC EDUCATION CAMPAIGN.

(a) IN GENERAL.—In carrying out this Act, the Office shall develop and implement an educational campaign to provide information to employers and the general public concerning the health insurance program developed under this Act.

(b) ANNUAL PROGRESS REPORTS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Office shall submit to the appropriate committees of Congress a report that describes the activities of the Office under subsection (a), including a determination by the office of the percentage of employers with knowledge of the health benefits programs provided for under this Act.

(c) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 and 2008.

SEC. 14. APPROPRIATIONS.

There are authorized to be appropriated to the Office, such sums as may be necessary in each fiscal year for the development and administration of the program under this Act.

SEC. 15. REFUNDABLE CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

"SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) DETERMINATION OF AMOUNT.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

''(1) the expense amount described in subsection (b), and

''(2) the expense amount described in subsection (c), paid by the taxpayer during the taxable year.

''(b) SUBSECTION (b) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The applicable percentage is equal to—

''(i) 25 percent in the case of self-only coverage,

''(ii) 35 percent in the case of family coverage (as defined in section 220(c)(5)), and

''(iii) 30 percent in the case of coverage for two adults or one adult and one or more children.

''(B) BONUS FOR PAYMENT OF GREATER PERCENTAGE OF PREMIUMS.—The applicable percentage otherwise specified in subparagraph (A) shall be increased by 5 percentage points for each additional 10 percent of the qualified employee health insurance expenses of each qualified employee exceeding 60 percent which are paid by the qualified small employer.

''(c) SUBSECTION (c) EXPENSE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The expense amount described in this subsection is, with respect to the first credit year of a qualified small employer which is an eligible employer, 10 percent of the qualified employee health insurance expenses of each qualified employee.

''(2) FIRST CREDIT YEAR.—For purposes of paragraph (1), the term 'first credit year' means the taxable year which includes the date that the health insurance coverage to which the qualified employee health insurance expenses relate becomes effective.

''(d) LIMITATION BASED ON WAGES.— With respect to a qualified employee whose wages at an annual rate during the taxable year exceed $25,000, the percentage which would (but for this section) be taken into account as the percentage for purposes of subsection (b)(2) or (c)(1) for the taxable year shall be reduced by an amount equal to the product of such percentage and the percentage that such qualified employee's wages in excess of $25,000 bears to $5,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—The term 'qualified small employer' means any employer (as defined in section 2(b)(2) of the Small Employers Health Benefits Program Act of 2006) which—

''(A) is a participating employer (as defined in section 2(b)(5) of such Act),

''(B) pays or incurs at least 60 percent of the qualified employee health insurance expenses of each qualified employee for self-only coverage, and

''(C) pays or incurs at least 50 percent of the qualified employee health insurance expenses of each qualified employee for all other categories of coverage.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage under such Act to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(3) QUALIFIED EMPLOYEE.—

''(A) DEFINITION.—

''(i) IN GENERAL.—The term 'qualified employee' means, with respect to any period, an employee (as defined in section 2(b)(1) of such Act) of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds $5,000 but does not exceed $30,000.

''(ii) ANNUAL ADJUSTMENT.—For each taxable year after 2007, the dollar amounts specified for the preceding taxable year (after the application of this subparagraph) shall be increased by the same percentage as the average percentage increase in premiums under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code for the calendar year in which such taxable year begins over the preceding calendar year.

''(B) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

''(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Small business employee health insurance expenses

''Sec. 37. Overpayments of tax''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

SEC. 16. EFFECTIVE DATE.

Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2007 and each calendar year thereafter.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. VOINOVICH, Mrs. CLINTON, and Mr. SCHUMER):

S. 2545. A bill to establish a collaborative program to protect the Great Lakes, and for other purposes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am proud to introduce the Great Lakes Collaboration Implementation Act with my colleague, Senator LEVIN. I would like to thank him for all of his hard work on this legislation and the Great Lakes.

The Great Lakes are a unique natural resource that need to be protected for future generations. The Great Lakes hold one-fifth of the world's surface freshwater, cover more than 94,000 square miles, and drain more than twice as much land. Over thirty of the basin's biological communities—and over 100 species—are globally rare or found only in the Great Lakes basin. The 637 State parks in the region accommodate more than 250 million visitors each year. The Great Lakes are significant to the eight States and two Canadian provinces that border them, as well as to the millions of other people around the country who fish, visit the surrounding parks, or use products that are affordably shipped to them via the lakes.

Unfortunately, the Great Lakes remain in a degraded state. A 2003 GAO

report said, ''Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats.'' Many scientists affirm that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and hydrologic modifications. A 2005 report from a group of Great Lakes scientific experts states that ''historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response.''

One cannot see the many threats to the Lakes simply by looking at them. The zebra mussel, an aquatic invasive species, causes $500 million per year in economic and environmental damage to the Great Lakes. One study found that since 1990—the year that zebra mussels really began to make an impact—Lake Michigan's yellow perch population has decreased by about 80 percent. In 2000, seven people died after pathogens entered the Walkerton, Ontario drinking water supply from the lakes. In May of 2004, more than ten billion gallons of raw sewage and storm water were dumped into the Great Lakes. In that same year, over 1,850 beaches in the Great Lakes were closed. Each summer, Lake Erie develops a 6,300 square mile dead zone. There is no appreciable natural reproduction of lake trout in the lower four lakes. More than half of the Great Lakes region's original wetlands have been lost, along with 60 percent of the forests. Wildlife habitat has been destroyed, thus diminishing opportunities necessary for fishing, hunting and other forms of outdoor recreation.

For several years, I have been calling for a plan to restore the Lakes and have been urging governors, mayors, environmental community and other regional interests to agree on a vision for the Great Lakes—not just immediately, but for the long-term future.

Last year, over 1,500 people worked to draft a plan through a process called Great Lakes Regional Collaboration. The Collaboration strategy includes dozens of recommendations for action at the federal, state, local, and tribal actions that will help restore the Great Lakes. Senator CARL LEVIN and I—as well as our colleagues in the House—have crafted a bill to implement these recommendations.

This bill would reduce the threat of non-native species invading the Great Lakes through ballast water and other pathways. The bill targets the Asian carp by authorizing the Corps of Engineers to improve the dispersal barrier project and prohibiting the importation or interstate commerce of live Asian carp.

The bill addresses threats to fish and wildlife habitat by reauthorizing the Great Lakes Fish & Wildlife Restoration Act, a current program that provides grants to states and tribes.

The bill reauthorizes the State Revolving Loan Fund and provides $20 billion over five years to assist communities with the critical task of upgrading and improving their wastewater infrastructure.

The bill authorizes $150 million per year for contaminated sediment cleanup at Areas of Concern under the Great Lakes Legacy program. It also provides the EPA with greater flexibility in implementing the program by allowing the Great Lakes National Program Office to disburse funds to the non-federal sponsor of a Legacy Act project.

The bill establishes a new grant program within EPA, called the Great Lakes Mercury Product Stewardship Strategy Grant Program, to phase out mercury in products.

The bill improves existing research programs and fills the gap where work is needed. We need baseline data to understand how the lakes are changing and where improvements are succeeding.

The bill authorizes NOAA to restore and remediate waterfront areas. Projects will require a non-federal partner who will provide at least a 35% cost-share. Individual projects may not cost more than $5 million.

Lastly, the bill establishes the Great Lakes Interagency Task Force and the Great Lakes Regional Collaboration process in order to coordinate and improve Great Lakes programs.

Restoring the Great Lakes to a healthy ecosystem is not something that will happen overnight. This is a long-term process, but Congress needs to act now. Our bill is a major step in the right direction. We need to continue to refocus and improve our efforts in order to reverse the trend of degradation of the Great Lakes. They are a unique natural resource for Ohio, the entire region, and the country—a resource that must be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

Mr. LAUTENBERG. Mr. President, I rise to submit a concurrent resolution to honor the fallen soldiers we have lost in Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF). My resolution, which Congressman RAHM EMANUEL is introducing in the House of Representatives, directs the Architect of the Capitol to display an exhibit to honor the memory of these brave men and women in the Rotunda of the Capitol building during the period beginning on May 29, 2006, and ending on July 4, 2006. The exhibit will display the name, photograph, and biographical information of each individual member of the United States Armed Forces who has been killed in Afghanistan and Iraq. Visitors will also have the opportunity to write messages of support and sympathy to the families of the fallen.

On March 20, 2006, we observed the third anniversary of the war of Iraq. Since the start of the war, more than 2,500 American soldiers have been killed serving their country. As we continue our efforts in Iraq and Afghanistan, we must recognize the ultimate sacrifice made by these troops. This temporary display will show the families of these heroes that they will always be remembered by a grateful nation.

I want to thank Senators CLINTON, BINGAMAN, KENNEDY, JOHNSON, BOXER, MENENDEZ, LANDRIEU, KERRY, and FEINSTEIN for co-sponsoring this important resolution. I hope that the rest of the Senate will support its passage, too.

Ms. STABENOW. Mr. President, I rise today to join my colleagues, Senator LEVIN an Senator DEWINE, in offering the Great Lakes Collaboration Implementation Act of 2006. I am a cosponsor of this bipartisan bill, introduced on behalf of the Great Lakes Senators by the co-chairs of our Great Lakes Task Force. Our bill is also cosponsored by Senator CLINTON, Senator VOINOVICH, and Senator SCHUMER.

The health and sustainability of the Great Lakes are something I feel passionately about. There is no more important issue to Michigan and our region of the country than the Great Lakes.

I want to take just a moment to recognize someone else who is equally passionate about Great Lakes protection and restoration. No single person has devoted more time, energy, and personal resources to the Great Lakes than Peter Wege of Grand Rapids, Michigan.

Peter Wege has been a leader and visionary for Great Lakes restoration for decades. Through the Wege Foundation, which he founded in 1967, he has made generous gifts to the people of Grand Rapids and communities all over Western Michigan for community development. I believe that part of the reason we are standing here today with a comprehensive bill to restore the Lakes is due to the work of Peter Wege. In 2005, a gift from the Wege Foundation created the Healing Our Waters Coalition, a coalition of grassroots groups dedicated to securing a sustainable restoration plan and Federal and State funding to carry it out. The Healing Our Waters Coalition and Peter Wege have been instrumental in bringing Great Lakes restoration to the forefront of national policy.

For the people of Michigan the Great Lakes are more than just one-fifth of the world's fresh water and a unique ecosystem—they are part of our identity. The Lakes are where we spend summers with our families, where we boat and swim, and where we fish and hunt. The Lakes also sustain our State and local economies by providing a

major route for intrastate and international commerce. The health and future of Michigan is directly linked to the health and future of the Great Lakes.

We in Michigan are blessed with a beautiful State full of lakes, rivers, forests, and streams. We have more public access to waterways than all of the other 49 States combined. We are surrounded by four of the five Great Lakes and more than 40,000 interior lakes, streams, and trails. This rich abundance of natural resources has made the outdoors a critical part of Michigan's economy and our way-of-life. The Great Lakes are key in this. Consider that the total revenue from Michigan's fishing, hunting and wildlife watching is nearly $5 billion every year. Fishing brings $2 billion annually to our State economy. Michigan has the most registered boaters of any State, nearly one million, and recreational boating brings $2 billion annually to the state. It's easy to see what restoring the Great Lakes is so important to us.

There are currently between 140 and 200 separate Great Lakes environmental programs administered by 10 Federal agencies. Each of these is important and has helped us significantly improve the health of the Great Lakes over the past 35 years. That said true restoration will take local, regional, and national coordination on projects that address all of the critical challenges facing the health of the Great Lakes.

In May 2004, President Bush signed a Presidential Executive Order creating the Great Lakes Regional Collaboration, also called the GLRC. The group is composed of Federal agencies, Great Lakes governors and mayors, local communities, Native American Tribes, and other stakeholders from the Great Lakes Basin. In December of last year the GLRC released a report outlining comprehensive and collaborative restoration of the Great Lakes ecosystem—the Great Lakes Regional Collaboration Strategy. The report calls for $20 billion in Federal, State, and local funding to clean up toxic hotspots, restore wetlands, prevent the introduction of new invasive species, and modernizing water treatment systems.

The GLRC Strategy has been endorsed through the Great Lakes Regional Collaboration Resolution by Great Lakes mayors, governors, tribes, the Congressional delegation, and the Interagency Task Force.

The bill that I am introducing today with my colleagues takes the next critical step and turns the strategy document into an on-the-ground reality.

Our commitment is strong. We have the will and the way, all we need now is the support of Congress to ensure the future of the Great Lakes—a magnificent natural resource that has been entrusted to our care.

Mr. LEVIN. Mr. President, I am pleased to introduce the ''Great Lakes Restoration Implementation Act'' with Senator MIKE DEWINE and our co-sponsors, Senators DEBBIE STABENOW, GEORGE VOINOVICH, and HILLARY RODHAM CLINTON. I also want to thank Representatives VERN EHLERS and RAHM EMANUEL for introducing similar Great Lakes restoration legislation in the House today.

The Great Lakes are vital not only to Michigan but to the Nation. Roughly one-tenth of the U.S. population lives in the Great Lakes basin and depends daily on the lakes. The Great Lakes provide drinking water to 33 million people. They provide the largest recreational resource for their neighboring States. They form the largest body of freshwater in the world, containing roughly 18 percent of the world's total; only the polar ice caps contain more freshwater. They are critical for our economy by helping move natural resources to the factory and to move products to market.

While the environmental protections that were put in place in the early 1970s have helped the Great Lakes make strides toward recovery, a 2003 GAO report made clear that there is much work still to do. That report stated: ''Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats.''

The Great Lakes problems have been well-known for several years, and, for the past year, 1,500 people through the Great Lakes region have worked together to compile recommendations for restoring the lakes. These recommendations were released last December, and, today, I am introducing this legislation to implement those recommendations.

This bill would reduce the threat of new invasive species by enacting comprehensive invasive species legislation and put ballast technology on board ships; it specifically targets Asian carp by authorizing the operation and maintenance of the dispersal barrier. The bill would restore fish and wildlife habitat by reauthorizing the Great Lakes Fish and Wildlife Restoration Act. It would provide additional resources to States and cities for their water infrastructure. It would provide additional funding for contaminated sediment cleanup and would give the EPA additional tools under the Great Lakes Legacy Act to move projects along faster. The bill would create a new grant program to phase-out mercury in products. It would authorize additional research through existing Federal programs as well as our non-Federal research institutions. And it would authorize coordination of federal programs.

The Great Lakes are a unique American treasure. We must recognize that we are only their temporary stewards. If Congress does not act to keep pace with the needs of the lakes, and the tens of millions of Americans dependent upon them and affected by their condition, the current problems will continue to build, and we may start to undo some of the good work that has already been done. We must be good stewards by ensuring that the federal government meets its ongoing obligation to protect and restore the Great Lakes. This legislation will help us meet that great responsibility to future generations.

By Mr. AKAKA (for himself and Mr. BINGAMAN):

S. 2550. A bill to provide for direct access to electronic tax return filing, and for other purposes; to the Committee on Finance.

Mr. AKAKA. Mr. President. As the tax filing deadline approaches, I am delighted to introduce the Free Internet Filing Act. The bill requires the Internal Revenue Service (IRS) to provide universal access to individual taxpayers filing their tax returns directly through the IRS Web site. I thank Senator BINGAMAN for cosponsoring this bill and working with me on so many issues that are important to taxpayers.

It is frustrating that individual taxpayers completing their own returns are not able to file directly with the IRS. Taxpayers are dependent on commercial preparers to electronically file their taxes. If a taxpayer takes the time necessary to prepare their returns by themselves, they must be provided with the option of electronically filing directly with the IRS. My legislation would make this direct filing possible.

The current system that provides a select group of taxpayers with the ability to file electronically for free using third party intermediaries, called the Free File Alliance, is a failure. In testimony before the Finance Committee yesterday, The National Taxpayer Advocate, Ms. Nina Olson, testified that ''As currently structured, Free File amounts to a Wild, Wild West of differing eligibility requirements, differing capabilities, differing availability of and fees for add-on products, and many sites that are difficult to use.'' Ms. Olson also stated that the ''IRS should place a basic, fill-in template on its website to allow any taxpayer who wants to self-prepare his or her return to do so and file directly with the IRS for free.'' I completely agree.

The current Free File Alliance agreement leaves out too many taxpayers. Taxpayers that make more than $50,000 are not eligible. In addition, tax preparation companies try to sell additional products and services, such as refund anticipation loans, to consumers that utilize their free file services that are accessed via the IRS Web site. Taxpayers should not be forced to access online filing through companies that peddle services and products to them. Taxpayers are directed to these companies via the IRS Web site. This should not happen. While paying their taxes

and fulfilling their obligations, taxpayers should be allowed to file directly without being subjected to sales pitches or ads. Taxpayers should not have the additional worry associated with sharing their private financial information with a tax preparation company. In the current environment where there have been so many electronic breeches of financial information, taxpayers should not be forced to hand over their private information if they want to electronically file their return with the IRS. Taxpayers should not lose out on the benefits of electronic filing simply because they are worried about sending their data to third parties.

My legislation will help increase the number of electronically filed returns. As Ms. Olson pointed out, nearly 45 million returns prepared using software are mailed in rather than electronically filed. With universal access to free e-file, this number could be substantially reduced. Electronic returns help taxpayers receive their refunds faster than mailing them in. This would also save the IRS resources and reduce possible errors that can occur when the mailed in returns are transcribed.

I want to take a moment to express my appreciation for all of the tremendous work that Ms. Olson has done in an attempt to improve the lives of taxpayers. It is a pleasure to work with Ms. Olson and her staff both in Washington and Hawaii. I look forward to continuing to work with the National Taxpayer Advocate, other Treasury officials, and my colleagues to expand access to Internet filing.

I ask unanimous consent that the full text of the bill be printed in the RECORD. I also ask unanimous consent that a letter of support from the Hawaii Alliance for Community-Based Economic Development be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD as follows:

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Free Internet Filing Act''.

SEC. 2. DIRECT ACCESS TO E-FILE FEDERAL INCOME TAX RETURNS.

(a) IN GENERAL.—The Secretary of the Treasury shall provide individual taxpayers with the ability to electronically file their Federal income tax returns through the Internal Revenue Service website without the use of an intermediary or with the use of an intermediary which is contracted by the Internal Revenue Service to provide free universal access for such filing (hereafter in this section referred to as the ''direct e-file program'') for taxable years beginning after the date which is not later than 3 years after the date of the enactment of this Act.

(b) DEVELOPMENT AND OPERATION OF PROGRAM.—In providing for the development and operation of the direct e-file program, the Secretary of the Treasury shall—

(1) consult with nonprofit organizations representing the interests of taxpayers as well as other private and nonprofit organizations and Federal, State, and local agencies as determined appropriate by the Secretary,

(2) promulgate such regulations as necessary to administer such program, and

(3) conduct a public information and consumer education campaign to encourage taxpayers to use the direct e-file program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the direct e-file program. Any sums so appropriated shall remain available until expended.

(d) REPORTS TO CONGRESS.—

(1) REPORT ON IMPLEMENTATION.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives every 6 months regarding the status of the implementation of the direct e-file program.

(2) REPORT ON USAGE.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives annually on taxpayer usage of the direct e-file program.

HAWAI'I ALLIANCE FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT,
Honolulu, HI, April 4, 2006.

Hon. DANIEL K. AKAKA,
U.S. Senate, 141 Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: The Hawai'i Alliance for Community Based Economic Development (HACBED) is writing in support of the ''Free Internet Filing Act.''

HACBED is a statewide 501(c)3 organization established in 1992 to help maximize the impact of community-based economic development organizations (CBEDOs). We pursue our mission by helping CBEDOs to increase community control of their assets and means of production. We accomplish this in many ways—by providing technical support to help CBEDOs deal with organizational issues; by networking on a local and national basis for funding and financing for community-based efforts; and, by advocating for communities to play a more active role in the political process in order to effect systemic change. To this end, HACBED has been facilitating statewide conversations to develop a comprehensive asset policy agenda. Core to this agenda is the recognition of the importance of creating policies that assist individuals, families and the broader community to build wealth.

Tax season is an essential time for low income families to take advantage of their tax related benefits, including the earned income tax credit. Electronic filing of taxes is a quicker, more efficient way to process a tax return. In many cases, working families must pay a professional tax preparer to prepare their return and file electronically. By providing free universal access to electronic filing these low income working families would be able to keep more of their hard earned dollars in their pocket.

HACBED fully supports this bill and we look forward to working with you in the future to insure free and low cost tax related services for low income families.

Sincerely,

BRENT DILLABAUGH,
Public Policy Director.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2551. A bill to provide for prompt payment and interest on late payments of health care claims; to the Committee on Health, Education, Labor, and Pensions.

Mr. MENENDEZ. Mr. President, I rise today to introduce legislation, along with my colleague, Senator LAUTENBERG, to preserve seniors' and all patients' access to local pharmacies, doctors and hospitals. Since these providers are on the front lines of our communities' health care systems and often find themselves squeezed by insurance copies on the one hand and their obligation to take care of patients on the other, this bill aims to relieve their burden by requiring prescription drug managers, managed care plans and other private health insurers to pay health care claims in a timely fashion.

The Prompt Payment of Health Benefits Claims Act bill seeks to address the financial strains being faced by hospitals and physicians in my State of New Jersey and across the country. In addition, this legislation would address the new financial crisis pharmacies are facing in light of the new Medicare Prescription Drug benefit. Specifically, the legislation requires prescription drug managers, private health plans and other private health insurers to pay manually filed claims within 30 days and electronically filed claims within 14 days. Insurers that fail to meet these timeframes would be required to pay interest for every day the claims goes unpaid. Insurers that knowingly violate these prompt payment requirements would be subject to monetary penalties.

A Federal prompt pay law is critical to ensuring that our pharmacies and health care providers maintain adequate cash flows and are able to continue functioning. Seniors and all patients depend on their local pharmacists and preferred physicians. They are the providers that know their patients best and ensure that they receive the important care they need and deserve. The threat of local pharmacies, physicians and hospitals going out of business has serious consequences with regards to the kind of care the community will receive.

The need for this legislation cannot be understated. In my State of New Jersey, local pharmacies have never had a more challenging financial situation. They are encountering lower reimbursement rates from the prescription drug managers and a 60–90 day lag time in reimbursements, which are putting many on the brink of going out of business. Almost half of all hospitals are operating in the red, and that number is growing. Physicians and hospitals are experiencing rising health care operating costs and tight Federal and State budgets. Untimely payment of claims has only compounded these problems.

The problem of late payments has reached such a crisis that the majority of States, including New Jersey, have enacted ''prompt pay'' laws to require insurers to pay their bills within a specific timeframe. Unfortunately, New Jersey's law, like most similar State laws, is largely ineffective because it

lacks strong enforcement provisions and offers no incentives for private insurers to comply. Furthermore, State prompt-pay laws apply only to State-regulated plans, which only cover approximately half of New Jerseyans that are insured.

The bottom line is that pharmacies, physicians, hospitals and other health care providers should not have to shoulder the burden of unpaid claims. These local providers have fulfilled their commitment to care for patients, and my legislation will ensure that private insurers assume the financial responsibilities for the health coverage they are being paid to provide.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prompt Payment of Health Benefits Claims Act of 2006''.

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF CLEAN CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all clean claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a clean claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE CLEAN.—A claim is deemed to be a clean claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is not a clean claim, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination. Such notification shall specify all deficiencies in the claim and shall list with specificity all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(4) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a clean claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a clean claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment.

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed clean under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraph (1).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan, or health insurance issuer offering group health insurance coverage, willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the group health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means a participant, beneficiary, pharmacy, or health care provider submitting a claim for payment of health care expenses.

''(2) CLEAN CLAIM.—The term 'clean claim' means a claim—

''(A) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

''(B) for such expenses that are covered under such plan at such time; and

''(C) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.''.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''(a) TIMEFRAME FOR PAYMENT OF CLEAN CLAIM.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall pay all clean claims and uncontested claims—

''(1) in the case of a claim that is submitted electronically, within 14 days of the date on which the claim is submitted; or

''(2) in the case of a claim that is not submitted electronically, within 30 days of the date on which the claim is submitted.

''(b) PROCEDURES INVOLVING SUBMITTED CLAIMS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which a clean claim is submitted, a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall provide the claimant with a notice that acknowledges receipt of the claim by the plan or issuer. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(2) CLAIM DEEMED TO BE A CLEAN CLAIM.—A claim is deemed to be a clean claim under this section if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(3) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(A) IN GENERAL.—If a group health plan or health insurance issuer determines that a claim for health care expenses is not clean, the plan or issuer shall, not later than the end of the period described in paragraph (2), notify the claimant of such determination.

Such notification shall specify all deficiencies in the claim and shall list with specificity all additional information or documents necessary for the proper processing and payment of the claim.

''(B) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the group health plan or health insurance issuer involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the additional information is received pursuant to subparagraph (A).

''(C) PAYMENT OF UNCONTESTED PORTION OF A CLAIM.—A group health plan or health insurance issuer shall pay any uncontested portion of a claim in accordance with subsection (a).

''(4) OBLIGATION TO PAY.—A claim for health care expenses that is not paid or contested by a group health plan or health insurance issuer within the timeframes set forth in this subsection shall be deemed to be a clean claim and paid by the plan or issuer in accordance with subsection (a).

''(c) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under this section is considered to have been made on the date on which full payment is received by the health care provider.

''(d) INTEREST SCHEDULE.—

''(1) IN GENERAL.—With respect to a clean claim, a group health plan or health insurance issuer that fails to comply with subsection (a) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this section, at the following rates:

''(A) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment.

''(B) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

''(C) 2½ percent per month after the 46th day of such nonpayment.

''(2) CONTESTED CLAIMS.—With respect to claims for health care expenses that are contested by the plan or issuer, once such claim is deemed clean under subsection (b), the interest rate applicable for noncompliance under this subsection shall apply consistent with paragraph (1).

''(e) PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any claimant has against a group health plan, or a health insurance issuer.

''(f) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a group health plan or health insurance issuer shall not retaliate against a claimant for exercising a right of action under this section.

''(g) FINES AND PENALTIES.—

''(1) FINES.—

''(A) IN GENERAL.—If a group health plan, or health insurance issuer offering group health insurance coverage, willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this section.

''(B) REPEATED VIOLATIONS.—If 3 separate fines under subparagraph (A) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(2) REMEDIAL ACTION PLAN.—Where it is established that the group health plan or health insurance issuer willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the health plan or health insurance issuer to—

''(A) submit a remedial action plan to the Secretary; and

''(B) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.

''(h) DEFINITIONS.—In this section:

''(1) CLAIMANT.—The term 'claimant' means a participant, beneficiary, pharmacy, or health care provider submitting a claim for payment of health care expenses.

''(2) CLEAN CLAIM.—The term 'clean claim' means a claim—

''(A) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

''(B) for such expenses that are covered under such plan at such time; and

''(C) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

''(3) CONTESTED CLAIM.—The term 'contested claim' means a claim for health care expenses that is denied by a group health plan or health insurance issuer during or after the benefit determination process.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' includes a physician or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification, as well as an institution or other facility or agency that provides health care services and is licensed, accredited, or certified to provide health care items and services under applicable State law.''.

(b) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2753. STANDARDS RELATING TO PROMPT PAYMENT OF HEALTH BENEFITS CLAIMS.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

''(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

''(A) PROMPT PAYMENT.—

''(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted under this part within the applicable number of calendar days after the date on which the claim is received.

''(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term 'clean claim' means a claim—

''(I) with respect to health care expenses for an individual who is covered under a group health plan on the date such expenses are incurred;

''(II) for such expenses that are covered under such plan at such time; and

''(III) that is submitted with all of the information requested by a group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan on the claim form or other instructions provided to the health care provider prior to submission of the claim.

''(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term 'applicable number of calendar days' means—

''(i) with respect to claims submitted electronically, 14 days; and

''(ii) with respect to claims submitted otherwise, 30 days.

''(C) INTEREST SCHEDULE.—

''(i) IN GENERAL.—With respect to a clean claim, a PDP sponsor that fails to comply with subparagraph (A) shall pay the claimant interest on the amount of such claim, from the date on which such payment was due as provided in this paragraph, at the following rates:

''(I) 1½ percent per month from the 1st day of nonpayment after payment is due through the 15th day of such nonpayment.

''(II) 2 percent per month from the 16th day of such nonpayment through the 45th day of such nonpayment.

''(III) 2½ percent per month after the 46th day of such nonpayment.

''(D) PROCEDURES INVOLVING CLAIMS.—

''(i) IN GENERAL.—A contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that, not later than 10 days after the date on which a clean claim is submitted, the PDP sponsor shall provide the claimant with a notice that acknowledges receipt of the claim by such sponsor. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(ii) CLAIM DEEMED TO BE A CLEAN CLAIM.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(iii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (ii), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list with specificity all additional information or documents necessary for the proper processing and payment of the claim.

''(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

''(III) PAYMENT OF CLEAN PORTION OF A CLAIM.—A PDP sponsor shall, as appropriate, pay any portion of a claim that would be a clean claim but for a defect or impropriety in a separate portion of the claim in accordance with subparagraph (A).

''(iv) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the provider within the applicable number of days (as defined in subparagraph (B)) shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

''(v) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is

considered to have been made on the date on which full payment is received by the provider.

''(E) PRIVATE RIGHT OF ACTION.—

''(i) IN GENERAL.—Nothing in this paragraph shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any individual or organization has against a provider or a PDP sponsor.

''(ii) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a PDP sponsor shall not retaliate against an individual or provider for exercising a right of action under this subparagraph.

''(F) FINES AND PENALTIES.—

''(i) FINES.—

''(I) IN GENERAL.—If a PDP sponsor willfully and knowingly violates this section or has a pattern of repeated violations of this section, the Secretary shall impose a fine not to exceed $1,000 per claim for each day a response is delinquent beyond the date on which such response is required under this paragraph.

''(II) REPEATED VIOLATIONS.—If 3 separate fines under subclause (I) are levied within a 5-year period, the Secretary is authorized to impose a penalty in an amount not to exceed $10,000 per claim.

''(ii) REMEDIAL ACTION PLAN.—Where it is established that the PDP sponsor willfully and knowingly violated this section or has a pattern of repeated violations, the Secretary shall require the PDP sponsor to—

''(I) submit a remedial action plan to the Secretary; and

''(II) contact claimants regarding the delays in the processing of claims and inform claimants of steps being taken to improve such delays.''.

(b) PROMPT PAYMENT BY MA-PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27) is amended by adding at the end the following new paragraph:

''(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The provisions of section 1860D–12(b)(4) shall apply to contracts with a Medicare Advantage organization in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D.''.

(c) MEDICAID.—Section 1932(f) of the Social Security Act (42 U.S.C. 1396u–2(f)) is amended by striking ''the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the organization agree to an alternate payment schedule'' and inserting ''section 1860D–12(b)(4), in the same manner as the provisions of such section apply to a PDP sponsor offering a prescription drug plan under part D''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed on or after December 31, 2006.

SEC. 5. PREEMPTION.

The provisions of this Act shall not supersede any contrary provision of State law if the provision of State law imposes requirements, standards, or implementation specifications that are equal to or more stringent than the requirements, standards, or implementation specifications imposed under this Act, and any such requirements, standards, or implementation specifications under State law that are equal to or more stringent than the requirements, standards, or implementation specifications under this Act shall apply to group health plans and health insurance issuers as provided for under State law.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 4 and subsection (b), the amendments made by this Act shall apply with respect to group health plans and health insurance issuers for plan years beginning after December 31, 2006.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the later of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 2007.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 7. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, or amendments made by this Act.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Ms. CANTWELL):

S. 2552. A bill to amend the Omnibus Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine, and for other purposes; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, I am joined today by Senators DORGAN and CANTWELL in introducing a bill to amend the recently passed PATRIOT Act reauthorization to ensure that Indian tribes are eligible for Federal methamphetamine-related grants. The legislation would allow tribes, like States, to receive grants to reduce the availability of meth in hot spot areas; grants for programs for drug-endangered children; and grants to address methamphetamine use by pregnant and parenting women offenders.

The scourge of methamphetamine has afflicted much of our Nation, and it has had particularly devastating effects on Indian reservations. The problem of meth in Indian country, which the National Congress of American Indians identified this year as its top priority, is ubiquitous, and has strained already overburdened law enforcement, health, social welfare, housing, and child protective and placement services on Indian reservations. Last week a former tribal judge on the Wind River Reservation in Wyoming pled guilty to conspiracy to distribute methamphetamine and other drugs. The day before, the Navajo Nation police arrested an 81 year old grandmother, her daughter, and her granddaughter, for selling meth. One tribe in Arizona had over 60 babies born last year with meth in their systems. At a hearing in the Senate Indian Affairs Committee last month on child abuse, witnesses testified that methamphetamine is a significant cause of abuse and neglect of Indian children. Last year, the National Indian Housing Council expanded its training for dealing with meth in tribal housing: the average cost of decontaminating a single residence that has been used a meth lab is $10,000. Meth is affecting every aspect of tribal life and something must be done.

The measure I am introducing today takes but a small step on the long journey toward ridding Indian country of the blight of methamphetamine. I encourage my colleagues to support it. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Tribes Methamphetamine Reduction Grants Act of 2006''.

SEC. 2. INDIAN TRIBES PARTICIPATION IN METHAMPHETAMINE GRANTS.

(a) IN GENERAL.—Section 2996(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ''and Indian tribes (as defined in section 2704)'' after ''to assist States''; and

(B) in subparagraph (B), by inserting '', Tribal,'' before ''and local'';

(2) in paragraph (2), by inserting ''and Indian tribes'' after ''make grants to States''; and

(3) in paragraph (3)(C), by inserting '', Tribal,'' after ''support State''.

(b) GRANT PROGRAMS FOR DRUG ENDANGERED CHILDREN.—Section 755(a) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) is amended by inserting ''and Indian tribes (as defined in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d))'' after ''make grants to States''.

(c) GRANT PROGRAMS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.—Section 756 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177) is amended—

(1) in subsection (a)(2), by inserting '', territorial, or Tribal'' after ''State'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting '', territorial, or Tribal'' after ''State''; and

(ii) by striking ''and/or'' and inserting ''or'';

(B) in paragraph (2)—

(i) by inserting '', territory, or Indian tribe'' after ''agency of the State''; and

(ii) by inserting '', territory, or Indian tribe'' after ''criminal laws of that State''; and

(C) by adding at the end the following:

''(3) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning as in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d)).''; and

(3) in subsection (c)—

(A) in paragraph (3), by striking ''Indian Tribe'' and inserting ''Indian tribe''; and

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''State's services'' and inserting ''services of the State, territory, or Tribe''; and

(II) by striking ''and/or'' and inserting ''or'';

(ii) in subparagraph (A), by striking ''State'';

(iii) in subparagraph (C), by inserting '', Indian tribes,'' after ''involved counties''; and

(iv) in subparagraph (D), by inserting '', Tribal'' after ''Federal, State''.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2555. A bill to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. Mr. President, today I am pleased to introduce legislation to designate the U.S. Post Office at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans Post Office Building.''

This legislation honors my friend and fellow Illinoisan LANE EVANS who has decided to retire instead of seeking reelection to the House of Representatives in November. Congressman LANE EVANS, born and raised in Rock Island, represents Illinois' 17th Congressional District. He was first elected in 1982 and is serving his eleventh term in the U.S. House of Representatives. From the Quad Cities to Quincy, from Springfield to Decatur and Carlinville, in cities and towns throughout his district, LANE EVANS is deeply respected. His service will be greatly missed.

Congressman EVANS was a Vietnam-era veteran of the U.S. Marine Corps and rose to the position of Ranking Democratic Member of the House Veterans' Affairs Committee. He is recognized as a leading advocate of veterans in Congress. He successfully led legislative efforts to pass Agent Orange compensation and health and compensation benefits for children of veterans exposed to Agent Orange who were born with spina bifida, a crippling birth defect. Congressman EVANS also led the effort to secure benefits for Persian Gulf veterans and to provide full disclosure about their possible exposure to toxins during their service. He has also worked to expand services to women veterans, pushed for increased help for veterans suffering from post-traumatic stress disorder, and established important new programs to assist in the rehabilitation and health care treatment of thousands of homeless veterans.

Congressman EVANS is also a member of the House Armed Services Committee and is Chairman of the Vietnam Veterans in Congress Caucus. He is also Co-Chairman of the Alcohol Fuels Caucus, the Congressional Working Group on Parkinson's Disease, and the International Workers Rights Caucus. Congressman EVANS has been named an ''Environmental Hero'' for his pro-environment voting record by the League of Conservation Voters and awarded the Conservationist of the Year Award for 1995 by the Heart of Illinois Sierra Club, the first time the organization gave the honor to a non-volunteer.

Congressman EVANS was born in Rock Island on August 4, 1951. He attended grade school and high school in Rock Island. Following graduation from high school, he joined the Marine Corps and was stationed in Okinawa. He received an honorable discharge in 1971. Congressman EVANS received a B.A. (magna cum laude) in 1974 from Augustana College in Rock Island, Illinois. He also attended Black Hawk College in Moline, Illinois. He is a 1978 graduate of Georgetown University Law Center in Washington, D.C. Following his graduation from law school, he practiced law in Rock Island where he served children, the poor and working families.

For over 20 years, LANE EVANS has been my closest friend in the Illinois Congressional Delegation. We came to the House of Representatives together and he proved to be an indomitable force. Time and again, LANE EVANS has shown extraordinary political courage fighting for the values that brought him to public service. But his greatest show of courage has been over the last 10 years as he battled Parkinson's disease and those who tried to exploit his physical weakness. His determination to serve the 17th Congressional District he loves pushed him to work harder as Parkinson's became a heavier burden each day. His dignity and perseverance in the face of this relentless and cruel disease is an inspiration to everyone who knows LANE EVANS.

I am pleased to offer this legislation to permanently and publicly recognize LANE EVANS and his service to his Congressional District, our State of Illinois, and the entire United States by naming the Rock Island Post Office in his honor. It would be a most appropriate way for us to express our appreciation to Congressman EVANS and to commemorate his public life and work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANE EVANS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, shall be known and designated as the ''Lane Evans Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Lane Evans Post Office Building''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 424—CONGRATULATING AND COMMENDING THE MEMBERS OF THE UNITED STATES OLYMPIC AND PARALYMPIC TEAMS, AND THE UNITED STATES OLYMPIC COMMITTEE, FOR THEIR SUCCESS AND INSPIRED LEADERSHIP

Mr. ALLARD submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 424

Whereas athletes of the United States Winter Olympic Team captured 9 gold medals, 9 silver medals, and 7 bronze medals at the Olympic Winter Games in Torino, Italy;

Whereas the total number of medals won by the competitors of the United States placed the United States ahead of all but 1 country, Germany, in total medals awarded to teams from any 1 country;

Whereas the paralympic athletes of the United States captured 7 gold medals, 2 silver medals, and 3 bronze medals at the Paralympic Winter Games, which were held immediately after the Olympic Winter Games in Torino, Italy;

Whereas the total medal count for the United States Winter Paralympic Team ranked the team 7th among all participating teams;

Whereas members of the United States Winter Olympic Team, such as skater Joey Cheek, who donated his considerable monetary earnings to relief efforts in Darfur, Sudan, and skier Lindsey Kildow, who exhibited considerable courage by returning to the field of competition only days after a painful and horrendous accident, demonstrated the true spirit of generosity and tenacity of the United States and the Olympic Winter Games; and

Whereas the leadership displayed by United States Olympic Committee Board Chairman Peter Ueberroth and Chief Executive Officer Jim Scherr has helped transform the committee into an organization that—

(1) upholds the highest ideals of the Olympic movement; and

(2) discharges the responsibilities of the committee to the athletes and the citizens of the United States in the manner that Congress intended when it chartered the committee in 1978: Now, therefore, be it

Resolved, That the Senate—

(1) commends and congratulates the members of the 2006 United States Winter Olympic and Paralympic Teams for their performance on and off the field of competition in Torino, Italy;

(2) expresses its appreciation for the firm, inspired, and ethical leadership displayed by the United States Olympic Committee; and

(3) extends its best wishes and encouragement to those athletes of the United States and their numerous supporters who are preparing to represent the United States at the 2008 Olympic Games, which are to be held in Beijing, China.

SENATE RESOLUTION 425—TO COMMEND THE UNIVERSITY OF MARYLAND WOMEN'S BASKETBALL TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I NATIONAL BASKETBALL CHAMPIONSHIP

Ms. MIKULSKI (for herself and Mr. SARBANES) submitted the following resolution; which was considered and agreed to:

S. RES. 425

Whereas the University of Maryland women's basketball team has worked vigorously, dynamically, and very enthusiastically to reach a championship level of play;

Whereas the students, alumni, faculty, and fans of the Terrapins should be congratulated for their commitment to the University of Maryland Terrapins national champion women's basketball team;

Whereas the student athletes, led by Crystal Langhorne and her teammates, Kristi Toliver, Freshman of the Year Marissa Coleman, Shay Doron, Laura Harper, Kalika France, Christie Marrone, Ashleigh Newman, Aurelie Noirez, Jade Perry, Angel Ross, Charmaine Carr, and Sa'de Wiley-Gatewood participated in this national championship season;

Whereas Head Coach Brenda Frese has recruited and taught the top talent in the United States to be student athletes at the University of Maryland and has been assisted by coaches Jeff Walz, Erica Floyd, Joanna Bernabei, and Director of Basketball Operations Mark Pearson, to imbue in these young women the values of teamwork, perseverance, and competitiveness;

Whereas the University of Maryland women's basketball team, also known as the ''Terps'', was able to defeat their 2 greatest foes en route to a first national championship in women's basketball;

Whereas the championship game was won in overtime after overcoming a deficit of 13 points with only 15 minutes remaining in regulation play; and

Whereas the grit, heart, and maturity of the 2006 University of Maryland Terrapins women's basketball team will be the standard-bearer for years to come in the game of Women's College Basketball: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Maryland Terrapins women's college basketball team for winning the 2006 National Collegiate Athletic Association Division I National Championship;

(2) recognizes the breathtaking achievements of Head Coach Brenda Frese, her assistant coaches, and all of the outstanding players; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Brenda Frese, Head Coach of the national champions University of Maryland Terrapins and to the University of Maryland College Park President, Dr. Dan Mote for appropriate display.

SENATE RESOLUTION 426—SUPPORTING THE GOALS AND IDEALS OF NATIONAL CAMPUS SAFETY AWARENESS MONTH

Mr. SPECTER (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 426

Whereas students and faculty on college and university campuses are subject to criminal threats from—

(1) within the borders of their respective institutions; and

(2) the communities in which their respective institutions are located;

Whereas, between 2001 and 2003, 84 homicides, 7,941 sex offenses, 9,296 aggravated assaults, and 3,367 arsons on the campuses of colleges and universities in the United States were reported under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. 1092(f));

Whereas between ⅛ and ¼ of all female students become the victim of a completed or attempted rape, usually by someone they know, during their college careers;

Whereas more than 97,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assaults each year;

Whereas, each year, more than 696,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking;

Whereas 1,700 college students between the ages of 18 and 24 die each year from alcohol-related unintentional injuries, including motor vehicle crashes;

Whereas, according to the Center for Campus Fire Safety, there were 82 fire fatalities in student housing buildings between January 2000 and January 2006;

Whereas Security On Campus, Inc., a national group dedicated to promoting safety and security on college and university campuses, has designated September 2006 as ''National Campus Safety Awareness Month''; and

Whereas the designation of National Campus Safety Awareness Month provides an opportunity to colleges and universities to inform students about—

(1) existing campus crime trends;

(2) campus security policies;

(3) crime prevention techniques;

(4) fire safety issues; and

(5) alcohol and other drug education, prevention, and treatment programs: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Campus Safety Awareness Month; and

(2) encourages students who are enrolled in colleges and universities to participate in events and awareness initiatives held during the month of September.

Mr. SPECTER. Mr. President, today is the 20th anniversary of the murder of a 19-year-old on a Pennsylvania college campus, Lehigh University in Bethlehem, PA. Twenty years ago, a student who was on drugs and alcohol entered her room through three doors which should have been locked and committed a brutal rape and murder.

When I was district attorney of Philadelphia, I dealt with numerous incidents of campus crime and knew firsthand of the severity. However, I believe that many people would be surprised by the extent of the problem.

According to U.S. Department of Education statistics, from 2001 to 2003, there were a total of 84 homicides, 7,941 sex offenses, 9,296 aggravated assaults, and 3,367 arsons on college campuses during that period of time.

The parents of Jeanne Clery, Connie and Howard Clery, have undertaken a crusade to try to prevent the recurrence of the brutal crime against their daughter and have had a national campaign. Part of that was their efforts, which I joined them on, to introduce the Crime Awareness and Campus Security Act of 1989, which became law in 1990.

Regrettably, there is only about one-third compliance with the schools on that act. The beginning of the school year is the time they call the Red Zone, when there are more offenses likely to be committed. For this reason, Security on Campus has designated September 2006 as National Campus Safety Awareness Month to provide an opportunity for colleges and universities to inform students about existing campus crime trends. At a very minimum, the colleges and universities ought to comply with the law on disclosure so that students may know what the risks are.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ARLEN SPECTER

NATIONAL CAMPUS SAFETY AWARENESS MONTH RESOLUTION

Mr. SPECTER. Mr. President, I have sought recognition today to introduce a resolution supporting the goals and ideals of National Campus Safety Awareness Month. Today is a somber yet, important day for this resolution to be introduced as it marks the 20th Anniversary of Jeanne Clery's murder. In the early morning hours of April 5, 1986, Jeanne Clery, a 19 year old student at Lehigh University in Bethlehem, Pennsylvania, was brutally raped and murdered in her dormitory room. Her killer was a drug and alcohol abuser and a Lehigh University student whom Jeanne had never met. He gained access to her room by proceeding, unopposed, through three propped-open doors, each of which should have been locked. This heinous crime opened the eyes of our nation to the extent of crime on college and university campuses.

When I was district attorney of Philadelphia, I dealt with numerous incidents of campus crime and know firsthand of its severity. However, I believe that many would be surprised by the extent of the problem. According to recent U.S. Department of Education statistics, a total of 84 homicides; 7,941 sex offenses; 9,296 aggravated assaults; and 3,367 arsons were reported on our nation's college and university campuses from 2001 to 2003. In addition, 1,700 college students between the ages of 18 and 24 die each year from alcohol related unintentional injuries, including motor vehicle crashes. Additionally, more than 696,000 students are assaulted by another student who has been drinking and more than 97,000 students are victims of alcohol related sexual assault or date rape according to the latest research from the National Institute on Alcohol Abuse and Alcoholism.

Since their daughter's death, Connie and Howard Clery, have worked tirelessly in their daughter's memory to protect the lives of college students by warning them of these dangers through the work of Security On Campus, Inc., a national nonprofit that they founded, which is based in King of Prussia, Pennsylvania. The Clerys first brought these issues to my attention shortly after their daughter's murder and I worked with them

to develop the Crime Awareness and Campus Security Act of 1989, which became law in 1990. This Act was modified and included in the Higher Education Act of 1998, as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Although the U.S. Department of Justice has concluded that only a third of all schools are reporting their campus crime statistics in a manner fully compliant with the law, the Clery Act has significantly changed the landscape of campus security for the better, but as the statistics reveal, more work remains to be done.

Security on Campus has found that the beginning of each new school year can be an especially dangerous time for students. This is particularly true for first year students who are on their own for the first time in a new environment and are experiencing new freedoms. Due to the increased risk of sexual assault that female college students face during this time, the period from the start of the Fall semester through the end of November is often referred to as the ''Red Zone''. For this reason, Security on Campus has designated September 2006 as National Campus Safety Awareness Month to provide opportunity for colleges and universities to inform students about existing campus crime trends, campus security policies, crime prevention techniques, fire safety, and alcohol and other drug education, prevention and treatment programs.

Throughout the past several years, I have worked together with the Clerys, Security on Campus, and crime prevention professionals on campuses across the country to help raise much needed awareness about these dangers. Thus, I urge my colleagues, in honor of Jeanne Clery's memory, to join me in this effort by supporting the goals and ideals of National Campus Safety Awareness Month.

Thank you, Mr. President. I yield the floor.

SENATE RESOLUTION 427—COMMEMORATING THE 50TH ANNIVERSARY OF THE INTERSTATE SYSTEM

Mr. INHOFE (for himself, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CHAFEE, Ms. MURKOWSKI, Mr. VITTER, Mr. THUNE, Mr. DEMINT, Mr. ISAKSON, Mr. JEFFORDS, Mr. BAUCUS, Mr. LIEBERMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 427

Whereas, on June 29, 1956, President Dwight D. Eisenhower signed into law—

(1) the Federal-Aid Highway Act of 1956 (Public Law 84–627; 70 Stat. 374) to establish the 41,000-mile National System of Interstate and Defense Highways, later designated as the ''Dwight D. Eisenhower National System of Interstate and Defense Highways''; and

(2) the Highway Revenue Act of 1956 (Public Law 84–627; 70 Stat. 387) to create the Highway Trust Fund;

Whereas, in 1990, the National System of Interstate and Defense Highways was renamed the Dwight D. Eisenhower System of Interstate and Defense Highways to recognize the role of President Eisenhower in the creation of the Interstate Highway System;

Whereas that web of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on the lives of United States citizens;

Whereas the Interstate System has proven to be a vital tool for transporting people and goods from 1 region to another speedily and safely;

Whereas the use of the Interstate System has helped the Nation facilitate domestic and global trade, and has allowed the Nation to create unprecedented economic expansion and opportunities for millions of United States citizens;

Whereas the Interstate System has enabled diverse communities throughout the United States to come closer together, and has allowed United States citizens to remain connected to each other as well as to the larger world;

Whereas the Interstate System has made it easier and more enjoyable for United States citizens to travel to long-distance destinations and spend time with family members and friends who live far away;

Whereas the Interstate System is a pivotal link in the national chain of defense and emergency preparedness efforts;

Whereas the Interstate System remains 1 of the paramount assets of the United States, as well as a symbol of human ingenuity and freedom;

Whereas the anniversary of the Interstate System provides United States citizens with an occasion to honor 1 of the largest public works achievements of all time, and reflect on how the Nation can maintain the effectiveness of the System in the years ahead: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims 2006 as the Golden Anniversary Year of the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(2) recognizes and celebrates the achievements of the Federal Highway Administration, State departments of transportation, and the highway construction industry of the United States, including contractors, designers, engineers, labor, materials producers, and equipment companies, for their contributions to the quality of life of the citizens of the United States; and

(3) encourages citizens, communities, governmental agencies, and other organizations to promote and participate in celebratory and educational activities that mark this uniquely important and historic milestone.

SENATE RESOLUTION 428—CONGRATULATING THE UNIVERSITY OF WISCONSIN MEN'S CROSS COUNTRY TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I CROSS COUNTRY CHAMPIONSHIP

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 428

Whereas, on November 21, 2005, after finishing second for 3 consecutive years, the University of Wisconsin men's cross country team (referred to in this preamble as the ''Badgers cross country team'') won the National Collegiate Athletic Association Division I Cross Country Championship in Terre Haute, Indiana, by placing first ahead of—

(1) the University of Arkansas; and

(2) Notre Dame University;

Whereas the Badgers cross country team secured its victory through the strong performances of its members, including—

(1) Simon Bairu, who won his second consecutive individual national championship with a time of 29:15.9;

(2) Chris Solinksy, who finished third in the championship race with a time of 29:27.8;

(3) Matt Withrow, who finished ninth in the race with a time of 29:50.7;

(4) Antony Ford, who finished 14th with a time of 29:55.2;

(5) Stuart Eagon, who finished 17th with a time of 30:05.3;

(6) Tim Nelson, who finished 18th with a time of 30:06.4; and

(7) Christian Wagner, who finished 58th with a time of 30:35.7;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Badgers cross country team, including—

(1) Simon Bairu;
(2) Brandon Bethke;
(3) Bryan Culver;
(4) Stuart Eagon;
(5) Antony Ford;
(6) Ryan Gasper;
(7) Ben Gregory;
(8) Bobby Lockhart;
(9) Tim Nelson;
(10) Teddy O'Reilly;
(11) Tim Pierie;
(12) Joe Pierre;
(13) Ben Porter;
(14) Codie See;
(15) Chris Solinsky;
(16) Christian Wagner; and
(17) Matt Withrop;

Whereas, on October, 30, 2005, the Badgers cross country team won its seventh straight Big Ten championship with a record-setting score and margin of victory by sweeping the top four positions and eight of the top ten positions;

Whereas numerous members of the Badgers cross country team were recognized for their performance in the Big Ten Conference, including—

(1) Simon Bairu, who was named the Big Ten Men's Cross Country Athlete of the Year and won the Big Ten Conference individual title;

(2) Matt Withrop, who was named the Big Ten Men's Cross Country Freshman of the Year after finishing third in the conference meet; and

(3) Head Coach Jerry Schumacher, who was named the Big Ten Men's Cross Country Coach of the Year for the fifth consecutive year; and

Whereas Simon Bairu, Chris Solinsky, Matt Withrow, Antony Ford, Stuart Eagon, and Tim Nelson earned All-American honors: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin men's cross country team, Head Coach Jerry Schumacher and his coaching staff, Athletic Director Barry Alvarez, and Chancellor John D. Wiley for an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

SENATE RESOLUTION 429—CONGRATULATING THE UNIVERSITY OF WISCONSIN WOMEN'S HOCKEY TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I HOCKEY CHAMPIONSHIP

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution, which was considered and agreed to:

S. RES. 429

Whereas on March 26, 2006, the University of Wisconsin Badgers won the women's Frozen Four in Minneapolis, Minnesota, with a

victory over the 2-time defending champion University of Minnesota Golden Gophers by 3 to 0 in the championship game after having defeated St. Lawrence University by 1 to 0 in the semifinals;

Whereas Jinelle Zaugg of Eagle River, Wisconsin, scored 2 goals, Grace Hutchison of Winnetka, Illinois, scored a goal, and Jessie Vetter of Cottage Grove, Wisconsin, had 31 saves in the championship game, and recorded the first shut-out in the history of the women's Frozen Four championship games;

Whereas every player on the University of Wisconsin women's hockey team (Sara Bauer, Rachel Bible, Nikki Burish, Sharon Cole, Vicki Davis, Christine Dufour, Kayla Hagen, Tia Hanson, Meghan Horras, Grace Hutchins, Cyndy Kenyon, Angie Keseley, Heidi Kletzien, Erika Lawler, Alycia Matthews, Meaghan Mikkelson, Phoebe Monteleone, Emily Morris, Mikka Nordby, Bobbi-Jo Slusar, Jessie Vetter, Kristen Witting, and Jinelle Zaugg) contributed to the success of this team;

Whereas Sara Bauer and Bobbi-Jo Slusar were named to the All-Western Collegiate Hockey Association (known as ''WCHA'') First Team, Sharon Cole, Meaghan Mikkelson, and Meghan Horras were named to the All-WCHA Second Team, Bobbi-Jo Slusar was named the WCHA Defensive Player of the Year, and Sara Bauer was named the WCHA Player of the Year;

Whereas Coach Mark Johnson, who won a National Collegiate Athletic Association National (known as ''NCAA'') championship as a member of the University of Wisconsin men's 1977 championship team, was a star on the 1980 United States Olympic hockey team, which produced what is known as the ''Miracle on Ice'', and is one of the few people who have won a national championship as both a player and coach, and was named the WCHA Coach of the Year;

Whereas Sara Bauer and Bobbi-Jo Slusar were named first team All-Americans, and Sara Bauer won the Patty Kazmaier Award, as the Nation's top player;

Whereas Jessie Vetter won the 2006 NCAA Tournament's Most Outstanding Player award and was joined on the All-Tournament Team by Jinelle Zaugg and Bobbi-Jo Slusar;

Whereas the victory in the women's Frozen Four is the University of Wisconsin's first varsity women's hockey national championship, and the university's first women's team national championship since 1984; and

Whereas this victory ended a terrific season in which the University of Wisconsin women's hockey team outscored their opponents 155–51 and had a record of 34–4–1: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin women's hockey team, the coaching staff, including Head Coach Mark Johnson, Athletic Director Barry Alvarez, and Chancellor John D. Wiley on an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

SENATE RESOLUTION 430—COMMENDING THE UNIVERSITY OF FLORIDA MEN'S BASKETBALL TEAM FOR WINNING THE 2006 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I BASKETBALL CHAMPIONSHIP

Mr. NELSON of Florida (for himself and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 430

Whereas on Monday, April 3, 2006, the University of Florida men's basketball team (referred to in this preamble as the ''Florida Gators'') defeated the men's basketball team of the University of California, Los Angeles, by a score of 73–57, to win the 2006 National Collegiate Athletic Association Division I Basketball Championship;

Whereas that historic victory by the Florida Gators was a product of—

(1) an almost flawless and unselfish team performance; and

(2) individual player excellence and versatility from members of the Florida Gators;

Whereas that victory marked the first national basketball championship victory for the University of Florida, and occurred 10 years after the school won the National Collegiate Athletic Association Division I Football Championship;

Whereas the head coach of the Florida Gators, Billy Donovan, became the second youngest coach to win the national championship, after leading the Florida Gators to a school-best, 33–6 record;

Whereas University of Florida sophomore Joakim Noah was chosen as the most outstanding player of the Final Four;

Whereas each player, coach, trainer, and manager dedicated his or her time and effort to ensuring that the Florida Gators reached the pinnacle of team achievement; and

Whereas the families of the players, students, alumni, and faculty of the University of Florida, and all of the supporters of the University of Florida, are to be congratulated for their commitment to, and pride in, the basketball program at the University of Florida; Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the University of Florida men's basketball team win the 2006 National Collegiate Athletic Association Division I Basketball Championship, and invites those individuals to the United States Capitol Building to be honored; and

(3) respectfully requests the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the University of Florida for appropriate display; and

(B) the coach of the University of Florida men's basketball team, Billy Donovan.

SENATE RESOLUTION 431—DESIGNATING MAY 11, 2006, AS ''ENDANGERED SPECIES DAY'', AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO BECOME EDUCATED ABOUT, AND AWARE OF, THREATS TO SPECIES, SUCCESS STORIES IN SPECIES RECOVERY, AND THE OPPORTUNITY TO PROMOTE SPECIES CONSERVATION WORLDWIDE

Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, Mr. CRAPO, Mr. BIDEN, Mr. BYRD, Mr. FEINGOLD, Mr. REED, Ms. CANTWELL, Mr. LEVIN, Mr. LIEBERMAN, Mr. DODD, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 431

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas two-thirds of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical for habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 11, 2006, as ''Endangered Species Day''; and

(2) encourages—

(A) educational entities to spend at least 30 minutes on Endangered Species Day teaching and informing students about threats to, and the restoration of, endangered species around the world, including the essential role of private landowners and private stewardship to the protection and recovery of species;

(B) organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate on educational information for use in schools; and

(C) the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 432—TO AUTHORIZE TESTIMONY OF A MEMBER OF THE SENATE IN E.M. GUNDERSON V. NEIL G. GALATZ

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 432

Whereas, in E.M Gunderson v. Neil G. Galatz, File No. 04–106, pending before the Fee Dispute Arbitration Committee of the State Bar of Nevada, the petitioner has requested an affidavit from Senator Harry Reid;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as

will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved* that Senator Harry Reid is authorized to testify in the case of E.M. Gunderson v. Neil G. Galatz, except when his attendance at the Senate is necessary for the performance of his legislative duties and except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Senator Harry Reid in connection with the testimony authorized in section one of this resolution.

SENATE RESOLUTION 433—HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR THE 140 YEARS OF SERVICE THAT IT HAS PROVIDED TO THE CITIZENS OF THE UNITED STATES AND THEIR ANIMALS

Mr. DURBIN (for himself, Mr. ENSIGN, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 433

Whereas April 10, 2006, marks the 140th anniversary of the founding of The American Society for the Prevention of Cruelty to Animals (referred to in this preamble as ''ASPCA'');

Whereas ASPCA has provided services to millions of citizens of the United States and their animals since Henry Bergh established the society in New York City in 1866;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all of God's creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as ''Prevention of Cruelty to Animals Month'', its Animal Poison Control Center, and its promotion of humane animal treatment through programs dedicated to law enforcement, education, shelter outreach, legislative affairs, counseling, veterinary services, and behavioral training, has provided invaluable services to the citizens of the United States and their animals: Now, therefore, be it

Resolved, That the Senate—

(1) honors The American Society for the Prevention of Cruelty to Animals for its 140 years of service to the citizens of the United States and their animals; and

(2) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the president of The American Society for the Prevention of Cruelty to Animals.

SENATE CONCURRENT RESOLUTION 86—DIRECTING THE ARCHITECT OF THE CAPITOL TO ESTABLISH A TEMPORARY EXHIBIT IN THE ROTUNDA OF THE CAPITOL TO HONOR THE MEMORY OF THE MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE LOST THEIR LIVES IN OPERATION AND IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. BINGAMAN, Mr. KERRY, Mr. KENNEDY, Mr. JOHNSON, Mrs. BOXER, Mr. MENENDEZ, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXHIBIT IN ROTUNDA OF THE CAPITOL IN HONOR OF MEMBERS OF ARMED FORCES KILLED IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT OF TEMPORARY EXHIBIT.—During the period beginning on May 29, 2006, and ending on July 4, 2006, the Architect of the Capitol shall display in the rotunda of the Capitol an exhibit to honor the memory of the members of the United States Armed Forces who have lost their lives in—

(1) Operation Iraqi Freedom; and

(2) Operation Enduring Freedom.

(b) FORM OF EXHIBIT.—The exhibit displayed under this section shall be in such form and contain such material as the Architect may select, so long as—

(1) the exhibit displays the name, photograph, and biographical information with respect to each individual member of the United States Armed Forces who has lost his or her life in the Operations referred to in subsection (a); and

(2) the exhibit provides—

(A) an opportunity for visitors to write messages of support and sympathy to the families of the individuals represented in the exhibit; and

(B) a means to ensure that those messages are transmitted to the families.

SENATE CONCURRENT RESOLUTION 87—EXPRESSING THE SENSE OF CONGRESS THAT UNITED STATES INTELLECTUAL PROPERTY RIGHTS MUST BE PROTECTED GLOBALLY

Mr. BIDEN (for himself and Mr. SMITH) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 87

Whereas the United States is the world's largest creator, producer, and exporter of copyrighted materials;

Whereas this important sector of the United States economy continues to be at great risk due to the widespread unauthorized reproduction, distribution, and sale of copyrighted United States works, including motion pictures, home video and television programming, music and sound recordings, books, video games, and software;

Whereas estimates point to a rate of intellectual property piracy of between 70 to 90 percent in some countries, with annual losses to the United States economy in the billions of dollars;

Whereas the major copyright industries are responsible for an estimated 6 percent of the Nation's total gross domestic product and an annual employment rate of more than 3 percent;

Whereas strong overseas sales and exports by the major copyright industries are even more important as the United States trade deficit continues to increase, and as the United States economy grows more reliant on the generation of intellectual property and in services related thereto;

Whereas the Congress is greatly concerned about the failure of some of the trading partners of the United States to meet their international obligations with respect to intellectual property protection;

Whereas in the Russian Federation, perpetrators of piracy, including one of the largest commercial Internet pirates in the world, are permitted to operate without meaningful hindrance from the Russian Government, and a number of factories located on government property produce pirated products;

Whereas the Russian Federation is now considering the adoption of a civil code that would annul the country's existing intellectual property law, and incorporate principles that do not conform to its international obligations;

Whereas the Senate and the House of Representatives have both overwhelmingly passed legislation expressing the sense of the Congress that the Russian Federation must significantly improve the protection of intellectual property as part of its effort to accede to the World Trade Organization and to maintain eligibility in the generalized system of preferences (GSP) program;

Whereas markets in the People's Republic of China are replete with pirated versions of United States movies, sound recordings, business software, and video games, resulting in over $2,000,000,000 in losses each year to the United States economy;

Whereas the People's Republic of China has made a number of commitments to the United States which it has yet to meet, including pledges to significantly reduce piracy rates, increase criminal prosecutions of intellectual property rights infringements, reduce exports of infringing goods, improve national police coordination, and join global Internet treaties;

Whereas the People's Republic of China and the Russian Federation export thousands of pirated versions of products of the United States to other countries;

Whereas Mexico has a strong market for pirated goods, with thousands of street vendors offering pirated products throughout the country;

Whereas Canada has become a source of camcorder piracy, has failed to bring its copyright law into conformity with international standards, and has failed to adequately prevent pirated products from other parts of the world from entering the country;

Whereas India can further improve copyright protections, particularly with regard to enforcement, deterrent sentencing, and coordination of national efforts;

Whereas Malaysia continues to be a leading source of pirated entertainment software and other copyrighted materials produced for export; and

Whereas steps must be taken to ensure that the rights of creators and distributors are protected abroad and that creative industries in the United States continue to flourish: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States should not complete any agreement relating to the accession of the Russian Federation to the World Trade Organization until the Russian Federation takes concrete steps to address widespread intellectual property violations, including—

(A) the closure and seizure of factories and machinery used for piracy;

(B) imposition of meaningful penal sanctions;

(C) investigation and prosecution of organized criminal piracy syndicates; and

(D) rejection of proposals that would undermine its existing intellectual property rights regime and retreat further from global standards;

(2) the People's Republic of China should fundamentally change its intellectual property rights enforcement model by significantly increasing the application of criminal sanctions against major copyright pirates and imposing effective deterrent penalties;

(3) Mexico, Canada, India, and Malaysia should work in cooperation with the United States Government and industries in the United States to address growing piracy problems within their borders;

(4) the failure of the countries listed in paragraph (3) to act and protect against the theft of United States intellectual property will have political and economic consequences with regard to relations between these countries and the United States; and

(5) the President should use all effective remedies and solutions to protect the intellectual property rights of United States persons and entities, and maintain policies that vigorously respond to the failure by other countries to abide by international standards of protection or to otherwise provide adequate and effective protection of intellectual property as provided under United States law.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3312. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table.

SA 3313. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3314. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3315. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3316. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3317. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3318. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3319. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3320. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3321. Mr. OBAMA (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3322. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3323. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3324. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3325. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3326. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3327. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3328. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3329. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3330. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3331. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3332. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3333. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3334. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3335. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3336. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3337. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3338. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3339. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3340. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3341. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3342. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3343. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3344. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3345. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3346. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3347. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3348. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3349. Mr. BOND (for himself, Mr. ALEXANDER, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3350. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3351. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3352. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3353. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3354. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3355. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3356. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3357. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3358. Mr. SESSIONS submitted an amendment intended to be proposed by him

to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3359. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3360. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3361. Mr. GRASSLEY (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3362. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3363. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3364. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3365. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3366. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3367. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3368. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3369. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3370. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3371. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3372. Mrs. CLINTON (for herself, Mr. OBAMA, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3373. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3374. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3375. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3376. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3377. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3378. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3379. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3380. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3381. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3382. Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUYE, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3383. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3384. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, Mr. HARKIN, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3385. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3386. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3387. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3388. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3389. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3390. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3391. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3392. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3393. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3394. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3395. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3396. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3397. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3398. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3399. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3400. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3401. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3402. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3403. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3404. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3405. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3406. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3407. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3408. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3409. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3410. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3411. Mr. DORGAN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3412. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3413. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3414. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3415. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3416. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3417. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3418. Mr. HARKIN submitted an amendment intended to be proposed by him to the

bill S. 2454, supra; which was ordered to lie on the table.

SA 3419. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3420. Mr. SESSIONS proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3421. Mr. NELSON, of Nebraska proposed an amendment to amendment SA 3420 proposed by Mr. SESSIONS to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3422. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3423. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3386 submitted by Mr. KYL and intended to be proposed to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3424. Mr. FRIST proposed an amendment to the bill S. 2454 , supra.

SA 3425. Mr. FRIST proposed an amendment to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra.

SA 3426. Mr. FRIST proposed an amendment to amendment SA 3425 proposed by Mr. FRIST to the amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, supra.

TEXT OF AMENDMENTS

SA 3312. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 252 of the amendment, between lines 2 and 3, insert the following:

(13) AGREEMENT TO COLLECT PERCENTAGE OF WAGES TO OFFSET COST OF EMERGENCY HEALTH SERVICES FURNISHED TO UNINSURED H–2C NONIMMIGRANTS.—The employer shall collect an amount equal to 1.45 percent of the wages paid by the employer to any H–2C nonimmigrant and shall transmit such amount to the Secretary of the Treasury for deposit into the H–2C Nonimmigrant Health Services Trust Fund established under section 404(c) of the Comprehensive Immigration Reform Act of 2006 at such time and in such manner as the Secretary of the Treasury shall determine.

On page 266, after line 22, add the following:

(c) H–2C NONIMMIGRANT HEALTH SERVICES TRUST FUND.—

(1) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''H–2C Nonimmigrant Health Services Trust Fund'', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this subsection or under rules similar to the rules of section 9602 of the Internal Revenue Code of 1986.

(2) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the H–2C Nonimmigrant Health Services Trust Fund amounts equivalent to the amounts received by the Secretary of the Treasury as a result of the provisions of section 218B(b)(13) of the Immigration and Nationality Act.

(3) EXPENDITURES FROM TRUST FUND.—Amounts in the H–2C Nonimmigrant Health Services Trust Fund shall be available only for making payments by the Secretary of Health and Human Services out of the State allotments established in accordance with paragraph (4) directly to eligible providers for the provision of eligible services to H–2C nonimmigrants to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services, as determined by such Secretary. Such payments shall be made under rules similar to the rules for making payments to eligible providers under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(4) STATE ALLOTMENTS.—Not later than January 1 of each year, the Secretary of Health and Human Services shall establish an allotment for each State equal to the product of—

(A) the total amount the Secretary of the Treasury notifies the Secretary of Health and Human Services was appropriated or credited to the H–2C Nonimmigrant Health Services Trust Fund during the preceding year; and

(B) the number of H–2C nonimmigrants employed in the State during such preceding year (as determined by the Secretary of Labor).

(5) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PROVIDER; ELIGIBLE SERVICES.—The terms ''eligible provider'' and ''eligible services'' have the meanings given those terms in section 1011(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(B) H–2C NONIMMIGRANT.—The term ''H–2C nonimmigrant'' has the meaning given that term in section 218A(n)(7) of the Immigration and Nationality Act.

SA 3313. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NONCITIZEN MEMBERSHIP IN THE ARMED FORCES.

Section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(1) in subsection (b),, by striking ''subsection (a)'' and inserting ''subsection (a) and (d)''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of law, except for provisions relating to revocation of citizenship under subsection (c), individuals who are not United States citizens shall not be denied the opportunity to apply for membership in the United States Armed Forces. Such individuals who become active duty members of the United States Armed Forces shall, consistent with subsections (a) through (e) and with the approval of their chain of command, be granted United States citizenship after performing at least 2 years of honorable and satisfactory service on active duty. Not later than 90 days after such requirements are met with respect to an individual, such individual shall be granted United States citizenship.

''(e) An alien described in subsection (d) shall be naturalized without regard to the requirements of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) and any other requirements, processes, or procedures of the Immigration and Naturalization Service, if the alien—

''(1) filed an application for naturalization in accordance with such procedures to carry out this section as may be established by regulation by the Secretary of Homeland Security or the Secretary of Defense;

''(2) demonstrates to his or her military chain of command, proficiency in the English language, good moral character, and knowledge of the Federal Government and United States history, consistent with the requirements contained in the Immigration and Nationality Act; and

''(3) takes the oath required under section 337 of such Act (8 U.S.C. 1448 et seq.) and participates in an oath administration ceremony in accordance with such Act.''.

SA 3314. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 477, after line 23, add the following:

Subtitle E—Farm Worker Transportation Safety

SEC. 651. SHORT TITLE.

This subtitle may be cited as the ''Farm Worker Transportation Safety Act''.

SEC. 652. SEATS AND SEAT BELTS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

(a) SEATS.—Except as provided in subsection (d), in promulgating vehicle safety standards under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) for the transportation of migrant and seasonal agricultural workers by farm labor contractors, agricultural employers or agricultural associations, the Secretary of Labor shall ensure that each occupant or rider in, or on, any vehicle subject to such standards is provided with a seat that is a designated seating position (as such term is defined for purposes of the Federal motor vehicle safety standards issued under chapter 301 of title 49, United States Code).

(b) SEAT BELTS.—Each seating position required under subsection (a) shall be equipped with an operational seat belt, except that this subsection shall not apply with respect to seating positions in buses that would otherwise not be required to have seat belts under the Federal motor vehicle safety standards.

(c) PERFORMANCE REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Labor, shall issue minimum performance requirements for the strength of seats and the attachment of seats and seat belts in vehicles that are converted, after being sold for purposes other than resale, for the purpose of transporting migrant or seasonal agricultural workers. The requirements shall provide a level of safety that is as close as practicable to the level of safety provided for in a vehicle that is manufactured or altered for the purpose of transporting such workers before being sold for purposes other than resale.

(2) EXPIRATION.—Effective on the date that is 7 years after the date of enactment of this Act, any vehicle that is or has been converted for the purpose of transporting migrant or seasonal agricultural workers shall provide the same level of safety as a vehicle that is manufactured or altered for such purpose prior to being sold for purposes other than resale.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the regulations contained in section 500.103, or the provision pertaining to transportation that is primarily on private roads in section 500.104(l), of title 29, Code of Federal Regulations, as in effect on the date of enactment of this Act.

(e) DEFINITIONS.—The definitions contained in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802) shall apply to this section.

(f) COMPLIANCE DATE.—Not later than 1 year after such date of enactment, all vehicles subject to this Act shall be in compliance with the requirements of this section.

SA 3315. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 8 and 9, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multiday training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

SA 3316. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

SA 3317. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDIES AND REPORTS ON ILLEGAL IMMIGRATION FROM MEXICO.

(a) STUDIES.—Not later than 1 year after the date of the enactment of this Act, and once every 5 years thereafter, the Secretary of State, in cooperation with the Secretary, shall conduct a study—

(1) to identify the geographic areas in Mexico from which—

(A) large numbers of residents are leaving to enter the United States in violation of Federal immigration law; and

(B) large percentages of the population of such areas are leaving to enter the United States in violation of Federal immigration law; and

(2) to analyze the social, political, and economic conditions in the geographic areas identified under paragraph (1) that contribute to illegal immigration into the United States.

(b) REPORTS.—Not later than 16 months after the date of the enactment of this Act, and every 5 years thereafter, the Secretary of State shall submit to Congress a report that—

(1) describes the results of the study conducted under subsection (a); and

(2) provides recommendations on how the Government of the United States can improve the conditions described in subsection (a)(2).

(c) IMMIGRATION IMPACT FOCUS AREAS.—

(1) DESIGNATION.—Based on the results of each study conducted under subsection (a) and subject to paragraph (2), the Administrator of the United States Agency for International Development, in consultation with the Secretary of State, the Secretary, and appropriate officials of the Government of Mexico, shall designate not more than 4 geographic areas within Mexico as Immigration Impact Focus Areas.

(2) POPULATION LIMITS.—An area may not be designated as an Immigration Impact Focus Area under paragraph (1) unless the population of such area is—

(A) not less than 0.5 percent of the total population of Mexico; and

(B) not more than 5.0 percent of the total population of Mexico.

(d) DEVELOPMENT ASSISTANCE PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of State, shall develop a plan to concentrate, to the extent practicable, economic development and humanitarian assistance provided to Mexico in the Immigration Impact Focus Areas designated under subsection (c)(1).

SA 3318. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 51, between lines 18 and 19, insert the following:

SEC. 13__. SCREENING OF MUNICIPAL SOLID WASTE.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term '' Bureau'' means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

SA 3319. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 55, strike lines 5 through 7 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''; and

(B) by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.''; and

(2) in subsection (c)(2)(A), by striking ''a fundamental change in circumstances'' and inserting ''fundamental and lasting changes that have stabilized the country of the alien's nationality''.

SA 3320. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—A rebuttable presumption is created for the purpose of a civil enforcement proceeding that an employer knowingly violated paragraph (1)(A) if the Secretary determines that—

''(A) the employer hired 50 or more new employees during a calendar year and that at least 10 percent of new employees hired in the calendar year by the employer were unauthorized aliens; or

''(B) the employer hired less than 50 new employees during a calendar year and that 5 new employees hired by the employer in the calendar year were unauthorized aliens.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of a document if the document examined reasonably appears on its face to be genuine. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine and that is sufficient to meet the requirement of clause (i), nothing in this paragraph may be construed as requiring the employer to solicit the production of any other document or as requiring the individual to produce such another document.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States provided that such a card or document—

''(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make such license or card resistant to tampering, counterfeiting, or fraudulent use;

''(ii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iii) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i) or (ii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited, or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of recruiting or referral for a fee of an individual, 3 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 3 years after the date of such hiring;

''(ii) 1 year after the date of the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(C) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—

''(i) IN GENERAL.—The Secretary shall, through the System, tentatively confirm or nonconfirm an individual's identity and eligibility for employment in the United States not later than 1 working day after an employer submits an inquiry regarding the individual.

''(ii) MANUAL VERIFICATION.—If a tentative nonconfirmation is provided for an individual under clause (i), the Secretary, through the System, shall conduct a secondary manual verification not later than 9 working days after such tentative nonconfirmation is made.

''(iii) NOTICES.—Not later than 10 working days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(I) if the System is able to confirm, through a verification described in clause (i) or (ii), the individual's identity and eligibility for employment in the United States, an appropriate code indicating such confirmation; or

''(II) if the System is unable to confirm, through a verification described in clause (i) or (ii), the individual's identity or eligibility for employment in the United States, an appropriate code indicating such tentative nonconfirmation.

''(iv) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to provide a notice described in clause (iii) for an individual within the period described in such clause, an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

''(I) the System is unable to confirm the individual's identity; or

''(II) the individual is ineligible for employment in the United States.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(iii)(II), not later than 10 working days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue to the employer an appropriate code indicating final confirmation or final nonconfirmation.

''(ii) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to confirm or tentatively nonconfirm the individual's identity and eligibility for employment in the United States within the period described in clause (i), an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

''(I) the System is unable to confirm the individual's identity; or

''(II) the individual is ineligible for employment in the United States.

''(iii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) RIGHT TO APPEAL FINAL NONCONFIRMATION.—The individual shall have the right to an administrative or judicial appeal of a notice of final nonconfirmation. The Secretary shall consult with the Commissioner of Social Security to develop a process for such appeals.

''(E) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information during use, transmission, storage, or disposal of that information, including the use of encryption, carrying out periodic stress testing of the System to detect, prevent, and respond to vulnerabilities or other failures, and utilizing periodic security updates;

''(v) to allow for monitoring of the use of the System and provide an audit capability;

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status; and

''(vii) to permit individuals—

''(I) to view their own records in order to ensure the accuracy of such records; and

''(II) to contact the appropriate agency to correct any errors through an expedited process established by the Secretary, in consultation and coordination with the Commissioner of Social Security.

''(F) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation under the System shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, and in no case shall the data stored be other than—

''(i) the individual's full legal name;

''(ii) the individual's date of birth;

''(iii) the individual's social security account number, or employment authorization status identification number;

''(iv) the address of the employer making the inquiry and the dates of any prior inquiries concerning the identity and authorization of the employee by the employer or any other employer and the address of such employer;

''(v) a record of each prior confirmation, tentative nonconfirmation, or final nonconfirmation made by the System for such individual; and

''(vi) in the case of the individual successfully contesting a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity or eligibility for employment of the individual, including the source of that error.

''(G) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner; and

''(iii) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(H) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(I) OFFICE OF ELECTRONIC VERIFICATION.—

''(i) IN GENERAL.—The Secretary shall establish the Office of Electronic Verification in the Bureau of Citizenship and Immigration Services.

''(ii) RESPONSIBILITIES.—Subject to available appropriations, the Office of Electronic Verification shall work with the Commissioner of Social Security—

''(I) to update the information maintained in the System in a manner that promotes maximum accuracy;

''(II) to provide a process for correcting erroneous information by registering not less than 97 percent of the new information and information changes submitted by employees within all relevant databases within 24 hours after submission and registering not less than 99 percent of such information within 10 working days after submission;

''(III) to ensure that at least 99 percent of the data received from field offices of the Bureau of Customs and Border Protection and from other points of contact between immigrants and the Department of Homeland Security is registered within all relevant databases within 24 hours after receipt;

''(IV) to ensure that at least 99 percent of the data received from field offices of the Social Security Administration and other points of contact between citizens and the Social Security Administration is registered within all relevant databases within 24 hours after receipt;

''(V) to employ a sufficient number of manual status verifiers to resolve 99 percent of the tentative nonconfirmations within 3 days;

''(VI) to establish and promote call-in help lines accessible to employers and employees on a 24-hour basis with questions about the functioning of the System or about the specific issues underlying a tentative nonconfirmation;

''(VII) to establish an outreach and education program to ensure that all new employers are fully informed of their responsibilities under the System; and

''(VIII) to conduct a random audit of a substantial percentage of workers' files in a database maintained by an agency or department of the United States each year to determine accuracy rates and require corrections of errors in a timely manner.

''(J) RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any individual who contests a tentative nonconfirmation or final nonconfirmation may review and challenge the accuracy of the data elements and information within the System upon, which such a nonconfirmation was based. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation to the Office of Electronic Verification. The Office of Electronic Verification shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge. The Office of Electronic Verification shall at least annually study and issue findings concerning the most common causes for erroneous nonconfirmations and issue recommendations concerning the resolution of such causes.

''(K) PRIVACY IMPACT ASSESSMENT.—The Commissioner of Social Security and the Secretary shall each complete a privacy impact assessment as described in section 208 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note) with regard to the System.

''(L) TRAINING.—The Commissioner of Social Security and the Secretary shall provide appropriate training materials to participating employers to ensure such employers are able to utilize the System in compliance with the requirements of this section.

''(M) HOTLINE.—The Secretary shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particular data that resulted on the issuance of a nonconfirmation notice under the System.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—

''(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall designate, in the Secretary's sole and unrevieweable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers is part of the critical infrastructure of the United States or directly related to the national security or homeland security of the United States.

''(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary shall require such employer or class of employers to participate in the System, with respect to employees hired by the employer on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(ii) DISCRETIONARY PARTICIPATION.—

''(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may designate, in the Secretary's sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers as a critical employer based on immigration enforcement or homeland security needs.

''(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary may require such employer or class of employers to participate in the System, with respect to employees hired on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis.

''(5) WAIVER.—

''(A) AUTHORITY TO PROVIDE A WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(B) REQUIREMENT TO PROVIDE A WAIVER.—The Secretary shall waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers until the date that the Comptroller General of the United States submits the initial certification described in paragraph (13)(E) and shall waive or delay such participation during a year if the Comptroller General fails to submit a certification of paragraph (13)(E) for such year.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, of any individual for employment in the United States, shall—

''(i) notify employees of the employer and prospective employees to whom the employer has extended a job offer that the employer participates in the System and that the System may be used for immigration enforcement purposes;

''(ii) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require;

''(iii) retain such form in electronic format, paper, microfilm, or microfiche and make such a form available for inspection for the periods and in the manner described in subsection (c)(3); and

''(iv) safeguard any information collected for purposes of the System and protect any means of access to such information to ensure that such information is not used for any other purpose and to protect the confidentiality of such information, including ensuring that such information is not provided to any person other than a person that carries out the employer's responsibilities under this subsection.

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be).

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and shall provide the individual with information about the right to contest the tentative nonconfirmation and contact information for the appropriate agency to file such contest.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice. An individual's failure to contest a tentative nonconfirmation may not be the basis for determining that the individual acted in a knowing (as defined in section 274a.1 of title 8, Code of Federal Regulations, or any corresponding similar regulation) manner.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 working days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under subclause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(ii) ASSISTANCE IN IMMIGRATION ENFORCEMENT.—If an employer has received a final nonconfirmation which is not the result of the individual's failure to contest a tentative nonconfirmation in subparagraph (C)(ii)(II), the employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws.

''(E) UNLAWFUL USE OF SYSTEM.—It shall be an unlawful immigration-related employment practice for an employer—

''(i) to use the System prior to an offer of employment;

''(ii) to use the System selectively to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most applicants;

''(iii) to terminate or undertake any adverse employment action based on a tentative nonconfirmation described in paragraph (2)(B)(iii)(II); or

''(iv) to reverify the employment authorization of hire employees after the 3 days of the employee's hire and after the employee has satisfied the eligibility verification provisions of subsection (b)(1) or to reverify employees hired before the date that the person or entity is required to participate in the System.

''(F) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

''(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than $1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

''(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than $10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than such an officer or employee who is responsible for the verification of employment eligibility or for the evaluation of an employment eligibility verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information, database, or other records utilized by the System.

''(11) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(13) ANNUAL STUDY AND REPORT.—

''(A) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct an annual study of the System as described in this paragraph.

''(B) PURPOSE OF THE STUDY.—The Comptroller General shall, for each year, undertake a study to determine whether the System meets the following requirements:

''(i) DEMONSTRATED ACCURACY OF THE DATABASES.—New information and information changes submitted by employees to the System is updated in all of the relevant databases within 3 working days of submission in at least 99 percent of all cases.

''(ii) LOW ERROR RATES AND DELAYS IN VERIFICATION.—

''(I) That, during a year, the System provides incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) for no more than 1 percent of all such notices sent during such year.

''(II) That, during a year, the System provides incorrect final nonconfirmation notices under paragraph (2)(C)(i) for no more than 3 percent of all such notices sent during such year.

''(III) That the number of incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

''(IV) That the number of final nonconfirmation notices under paragraph (2)(C)(i) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

''(iii) LIMITED IMPLEMENTATION COSTS TO EMPLOYERS.—No employer is required to spend more than $10 to verify the identity and employment eligibility of an individual through the system in any year, including the costs of all staff, training, materials, or other related costs of participation in the System.

''(iv) MEASURABLE EMPLOYER COMPLIANCE WITH SYSTEM REQUIREMENTS.—

''(I) The System has not and will not result in increased discrimination or cause reasonable employers to conclude that employees of certain races or ethnicities are more likely to have difficulties when offered employment caused by the operation of the System.

''(II) The determination described in subclause (I) is based on an independent study commissioned by the Comptroller General in each phase of expansion of the System that includes the use of testers.

''(v) PROTECTION OF WORKERS' PRIVATE INFORMATION.—At least 97 percent of employers who participate in the System are in full compliance with the privacy requirements described in this subsection.

''(vi) ADEQUATE AGENCY STAFFING AND FUNDING.—The Secretary and Commissioner of Social Security have sufficient funding to meet all of the deadlines and requirements of this subsection.

''(C) CONSULTATION.—In conducting a study under this paragraph, the Comptroller General shall consult with representatives from business, labor, immigrant communities, State governments, privacy advocates, and appropriate executive branch agencies.

''(D) REQUIREMENT FOR REPORTS.—Not later that 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to the Secretary and to Congress a report containing the findings of the study carried out under this paragraph. Each report shall include any certification made under subparagraph (E) and, at a minimum, the following:

''(i) An assessment of the impact of the System on the employment of unauthorized workers, including whether it has indirectly caused an increase in exploitation of unauthorized workers.

''(ii) An assessment of the accuracy of databases employed by the System and of the timeliness and accuracy of the System's responses to employers.

''(iii) An assessment of the privacy and confidentiality of the System and of its overall security with respect to cyber theft and theft or misuse of private data.

''(iv) An assessment of whether the System is being implemented in a nondiscriminatory and non-retaliatory manner.

''(v) Recommendations regarding whether or not the System should be modified prior to further expansion.

''(E) CERTIFICATION.—If the Comptroller General determines that the System meets the requirements described in subparagraph (B) for a year, the Comptroller shall certify such determination and submit such certification to Congress with the report required by subparagraph (D).

''(14) SUNSET PROVISION.—Mandatory participation in the System shall be discontinued 6 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006 unless Congress reauthorizes such participation.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary

may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until the appeal process is completed. The burden shall be on the employer to show that the final determination was not supported by a preponderance of the evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, no earlier than 46 days, but no later than 90 days, after the date the final determination is issued, in any appropriate district court of the United States. The burden shall remain on the employer to show that the final determination was not supported by a preponderance of the evidence.

''(7) RECOVERY OF COSTS AND ATTORNEYS' FEES.—In any appeal brought under paragraph (5) by an employer or suit brought under paragraph (6) against an employer, the employer shall be entitled to recover from the Department of Homeland Security reasonable costs and attorneys' fees if such employer substantially prevails on the merits of the case. An award of such attorneys' fees may not exceed $25,000. Any costs and attorneys' fees assessed against the Department of Homeland Security under this paragraph shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and shall not be reimbursed from any other source.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $2,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, the deposit of such amounts as miscellaneous receipts in the general fund.

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer may be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, may be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

''(j) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)''.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMMISSIONER OF SOCIAL SECURITY.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out the responsibilities of the Commission under section 274A of the Immigration and Nationality Act, as amended by subsection (a).

(2) SECRETARY OF HOMELAND SECURITY.—There are authorized to be appropriated to

the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out section 274A of the Immigration and Nationality Act, as amended by section 301(a).

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 303. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 304. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

''(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

''(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

''(B) to use the verification system for screening of an applicant prior to an offer of employment;

''(C) except as described in section 274A(d)(4)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(b).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking ''$250 and not more than $2,000'' and inserting ''$1,000 and not more than $4,000'';

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

(C) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2007 through 2009'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 3321. Mr. OBAMA (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of legal status, including immigrant and nonimmigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of nonrenewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans' mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

''(H) an alien—

''(i)(b) subject to section 212(j)(2)—

''(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

''(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

''(b1)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

''(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

''(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

''(bb) who meets the qualifications described in section 212(m)(1); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

''(ii)(a) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

''(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

''(b) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

''(c) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

''(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

''(iii) who—

''(a) has a residence in a foreign country which the alien has no intention of abandoning; and

''(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

''(iv) who—

''(a) is the spouse or a minor child of an alien described in clause (iii); and

''(b) is accompanying or following to join such alien.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 1 year after the date of the enactment of this Act and shall apply to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) TEMPORARY GUEST WORKERS.—

(1) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''SEC. 218A. ADMISSION OF H–2C NONIMMIGRANTS.

''(a) AUTHORIZATION.—The Secretary of State may grant a temporary visa to an H–2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

''(b) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for H–2C nonimmigrant status if the alien meets the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

''(2) EVIDENCE OF EMPLOYMENT.—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for H–2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history and gang membership;

''(iii) immigration history; and

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

''(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

''(i) the alien has read and understands all of the questions and statements on the application form;

''(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

''(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as an H–2C nonimmigrant—

''(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

''(B) the Secretary of Homeland Security may not waive the application of—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

''(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

''(i) for humanitarian purposes;

''(ii) to ensure family unity; or

''(iii) if such a waiver is otherwise in the public interest.

''(2) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as an H–2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H–2C nonimmigrant status unless all appropriate background checks have been completed.

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An H–2C nonimmigrant may not change nonimmigrant classification under section 248.

''(f) PERIOD OF AUTHORIZED ADMISSION.—

''(1) AUTHORIZED PERIOD AND RENEWAL.—The initial period of authorized admission as an H–2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

''(2) INTERNATIONAL COMMUTERS.—An alien who resides outside the United States and commutes into the United States to work as an H–2C nonimmigrant, is not subject to the time limitations under paragraph (1).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (c), the period of authorized admission of an H–2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

''(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H–2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsections (b) and (f)(2). The Secretary may, in the Secretary's sole and unreviewable discretion, reauthorize such alien for admission as an H–2C nonimmigrant without requiring the alien's departure from the United States.

''(4) VISITS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, an H–2C nonimmigrant—

''(i) may travel outside of the United States; and

''(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

''(5) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted H–2C nonimmigrant status, or an extension of such status, if—

''(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

''(B) the alien is inadmissible as a nonimmigrant; or

''(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H–2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H–2C nonimmigrant status.

''(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H–2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

''(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

''(3) shall, during the alien's authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; and

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(5) shall be issued to the H–2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien's application for H–2C nonimmigrant status.

''(h) PENALTY FOR FAILURE TO DEPART.—If an H–2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien's authorized period of admission as an H–2C nonimmigrant terminates, the H–2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is physically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

''(1) any relief under sections 240A and 240B; or

''(2) nonimmigrant status under section 101(a)(15).

''(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H–2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

''(1) the employer complies with section 218B; and

''(2) the alien, after lawful admission to the United States, did not work without authorization.

''(k) CHANGE OF ADDRESS.—An H–2C nonimmigrant shall comply with the change of address reporting requirements under section 265 through either electronic or paper notification.

''(l) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

''(m) ISSUANCE OF H–4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—The alien spouse and children of an H–2C nonimmigrant (referred to in this section as 'dependent aliens') who are accompanying or following to join the H–2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

''(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependant alien meets the following requirements:

''(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H–4A nonimmigrant status listed under subsection (c).

''(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien may be required to submit to a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

''(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

''(1) AGGRIEVED PERSON.—The term 'aggrieved person' means a person adversely affected by an alleged violation of this section, including—

''(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

''(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

''(2) AREA OF EMPLOYMENT.—The terms 'area of employment' and 'area of intended employment' mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

''(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms 'employ', 'employee', and 'employer' have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

''(5) FOREIGN LABOR CONTRACTOR.—The term 'foreign labor contractor' means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

''(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term 'foreign labor contracting activity' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

''(7) H–2C NONIMMIGRANT.—The term 'H–2C nonimmigrant' means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

''(8) SEPARATION FROM EMPLOYMENT.—The term 'separation from employment' means the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee's rights under a collective bargaining agreement or other employment contract.

''(9) UNITED STATES WORKER.—The term 'United States worker' means an employee who is—

''(A) a citizen or national of the United States; or

''(B) an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) admitted as a refugee under section 207;

''(iii) granted asylum under section 208; or

''(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–2C workers.''.

(b) CREATION OF STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Aid Account'. Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B.''.

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

''SEC. 218B. EMPLOYER OBLIGATIONS.

''(a) GENERAL REQUIREMENTS.—Each employer who employs an H–2C nonimmigrant shall—

''(1) file a petition in accordance with subsection (b); and

''(2) pay the appropriate fee, as determined by the Secretary of Labor.

''(b) PETITION.—A petition to hire an H–2C nonimmigrant under this section shall include an attestation by the employer of the following:

''(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H–2C nonimmigrant—

''(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

''(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

''(2) WAGES.—

''(A) IN GENERAL.—The H–2C nonimmigrant will be paid not less than the greater of—

''(i) the actual wage level paid by the employer to all other individuals with similar

experience and qualifications for the specific employment in question; or

''(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

''(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

''(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

''(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

''(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

''(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

''(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

''(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H–2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

''(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H–2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

''(5) PROVISION OF INSURANCE.—If the position for which the H–2C nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the H–2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(6) NOTICE TO EMPLOYEES.—

''(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the H–2C nonimmigrant is sought.

''(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

''(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H–2C nonimmigrant is sought; or

''(ii) electronically disseminated such a notice to the employer's employees in the occupational classification for which the H–2C nonimmigrant is sought.

''(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H–2C nonimmigrant is sought—

''(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

''(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

''(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

''(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

''(8) INELIGIBILITY.—The employer is not currently ineligible from using the H–2C nonimmigrant program described in this section.

''(9) BONAFIDE OFFER OF EMPLOYMENT.—The job for which the H–2C nonimmigrant is sought is a bona fide job—

''(A) for which the employer needs labor or services;

''(B) which has been and is clearly open to any United States worker; and

''(C) for which the employer will be able to place the H–2C nonimmigrant on the payroll.

''(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

''(A) be provided to every H–2C nonimmigrant employed under the petition;

''(B) be made available for public examination at the employer's place of business or work site;

''(C) be made available to the Secretary of Labor during any audit; and

''(D) remain available for examination for 5 years after the date on which the petition is filed.

''(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H–2C nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

''(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H–2C nonimmigrant is sought.

''(c) AUDIT OF ATTESTATIONS.—

''(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H–2C nonimmigrants to the Secretary of Labor for potential audit.

''(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

''(d) INELIGIBLE EMPLOYERS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer's petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

''(A) has, with respect to the attestations required under subsection (b)—

''(i) misrepresented a material fact;

''(ii) made a fraudulent statement; or

''(iii) failed to comply with the terms of such attestations; or

''(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

''(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

''(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H–2C nonimmigrant is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for unskilled and low-skilled workers during the most recently completed 6-month period averaged more than 9.0 percent.

''(e) REGULATION OF FOREIGN LABOR CONTRACTORS.—

''(1) COVERAGE.—Notwithstanding any other provision of law, an H–2C nonimmigrant may not be treated as an independent contractor.

''(2) APPLICABILITY OF LAWS.—An H–2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

''(3) TAX RESPONSIBILITIES.—With respect to each employed H–2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(f) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H–2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

''(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

''(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

''(g) LABOR RECRUITERS.—

''(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

''(A) the place of employment;

''(B) the compensation for the employment;

''(C) a description of employment activities;

''(D) the period of employment;

''(E) any other employee benefit to be provided and any costs to be charged for each benefit;

''(F) any travel or transportation expenses to be assessed;

''(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

''(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

''(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

''(i) work related injuries and death during the period of employment;

''(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

''(iii) the name and the telephone number of each person who must be notified of an injury or death; and

''(iv) the time period within which such notice must be given;

''(J) any education or training to be provided or required, including—

''(i) the nature and cost of such training;

''(ii) the entity that will pay such costs; and

''(iii) whether the training is a condition of employment, continued employment, or future employment; and

''(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

''(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

''(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

''(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

''(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

''(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

''(7) OTHER WORKER PROTECTIONS.—

''(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

''(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

''(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

''(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

''(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

''(II) an expeditious means to update registrations and renew certificates; and

''(III) any other requirements that the Secretary may prescribe.

''(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

''(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

''(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

''(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

''(aa) is a person who has been refused issuance or renewal of a certificate;

''(bb) has had a certificate suspended or revoked; or

''(cc) does not qualify for a certificate under this paragraph; or

''(III) the applicant for or holder of the certification has failed to comply with this Act.

''(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

''(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

''(h) ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

''(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

''(4) NOTICE AND HEARING.—

''(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

''(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

''(5) ATTORNEYS' FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys' fees and costs.

''(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

''(A) to seek remedial action, including injunctive relief;

''(B) to recover the damages described in subsection (i); or

''(C) to ensure compliance with terms and conditions described in subsection (g).

''(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

''(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(i) PENALTIES.—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) benefits; and

''(C) civil monetary penalties.

''(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

''(A) for a violation of subsection (e) or (f)—

''(i) a fine in an amount not to exceed $2,000 per violation per affected worker;

''(ii) if the violation was willful violation, a fine in an amount not to exceed $5,000 per violation per affected worker;

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed $25,000 per violation per affected worker; and

''(B) for a violation of subsection (g)—

''(i) a fine in an amount not less than $500 and not more than $4,000 per violation per affected worker;

''(ii) if the violation was willful, a fine in an amount not less than $2,000 and not more than $5,000 per violation per affected worker; and

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than $6,000 and not more than $35,000 per violation per affected worker.

''(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

''(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than $35,000, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

''Sec. 218B. Employer obligations.''.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the 'alien employment management system') to manage and track the employment of aliens described in sections 218A and 218D.

''(b) REQUIREMENTS.—The alien employment management system shall—

''(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H–2C nonimmigrant;

''(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

''(A) if the nonimmigrant is employed;

''(B) which employers have hired an H–2C nonimmigrant;

''(C) the number of H–2C nonimmigrants that an employer is authorized to hire and is currently employing;

''(D) the occupation, industry, and length of time that an H–2C nonimmigrant has been employed in the United States;

''(3) allow employers to request approval of multiple H–2C nonimmigrant workers; and

''(4) permit employers to submit applications under this section in an electronic form.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

''Sec. 218C. Alien employment management system.''.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly accessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency's statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity at a prevailing wage level, as described in section 218B(b)(2)(C) of the Immigration and Nationality Act, as added by section 404 of this Act.

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H–2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the ''Temporary Worker Task Force'' (referred to in this section as the ''Task Force'').

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) MEETINGS.—

(1) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(C) under section 101(a)(15)(H)(ii)(c) may not exceed—

''(i) 300,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year—

''(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

''(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

''(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''.

(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to

an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, if the alien has maintained such nonimmigrant status in the United States for a cumulative total of 4 years.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien's home country for returning workers.

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, ', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period

beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

SA 3322. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line 4 and all that follows through page 277, line 21, and insert the following:

''(n) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) shall not be eligible for any adjustment of the status of the alien.''.

SA 3323. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 235, strike lines 12 through 16.

On page 235, line 17, strike ''(3)'' and insert ''(2)''.

On page 236, line 8, strike ''subsections (b) and (f)(2)'' and insert ''subsection (b)''.

On page 236, line 13, strike ''(4)'' and insert ''(3)''.

On page 237, line 3, strike ''(5)'' and insert ''(4)''.

SA 3324. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

On page 343, strike lines 1 through 7 and insert the following:

''(i) has completed or will complete not less than 500 hours of community service; and

''(ii)(I) meets the requirements of section 312; or

''(II) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

SA 3325. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 325, strike line 1 and all that follows through page 382, line 7.

SA 3326. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line 4 and all that follows through page 277, line 21, and insert the following:

''(n) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) shall not be eligible for any adjustment of the status of the alien.''.

Beginning on page 325, strike line 1 and all that follows through page 382, line 7.

SA 3327. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 268, strike line 22 and all that follows through page 269, line 2, and insert the following:

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

(2) LIMITATION.—Notwithstanding any other provision of this Act, or the amendments made by this Act, a visa may not be issued to a nonimmigrant alien described in clause (ii)(C) or (iv) of section 101(a)(15)(H) of the Immigration and Nationality Act, as added by section 402, until Congress appropriates sufficient funds to fully implement the border security and interior enforcement provisions of titles I and II of this Act.

SA 3328. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 348, line 7, strike ''There'' and insert ''Subject to subsection (c), there''

On page 348, strike lines 14 through 20 and insert the following:

(c) EFFECTIVE DATE.—Funds may not be appropriated pursuant to the authorization under subsection (a) until Congress has appropriated sufficient funds to fully implement the border security and interior enforcement provisions of titles I and II of this Act.

SA 3329. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 477, after line 23, add the following:

SEC. 644. SUNSET PROVISION.

This title, titles IV and V, and the amendments made by such titles, are repealed on the date that is 6 years after the date of the enactment of this Act.

SA 3330. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. VISA ISSUANCE REPORT.

Not later than March 31 of each year, the Secretary of State, in consultation with the Secretary and the Attorney General, shall submit to Congress a report that identifies, for the most recent calendar year, the number of visas issued in each visa category.

SA 3331. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROMISE ACT.

(a) SHORT TITLE.—This section may be cited as the ''Parental Responsibility Obligations Met through Immigration System Enforcement Act'' or the ''PROMISE Act''.

(b) ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)) is amended by adding at the end the following:

''(F) NONPAYMENT OF CHILD SUPPORT.—

''(i) IN GENERAL.—Except as provided in clause (ii), an alien who is legally obligated under a judgment, decree, or order to pay child support and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of the Social Security Act (42 U.S.C. 654(31)) is inadmissible.

''(ii) EXCEPTION.—An alien described in clause (i) may become admissible when—

''(I) child support payments under the judgment, decree, or order are satisfied; or

''(II) the alien is in compliance with a payment agreement approved by the appropriate State enforcement agency or court.

''(iii) FEDERAL PARENT LOCATOR SERVICE.—The Federal Parent Locator Service, established under section 453 of the Social Security Act (42 U.S.C. 653), shall be used to determine if an alien is inadmissible under clause (i).

''(iv) REQUEST BY FOREIGN COUNTRY.—For purposes of clause (i), any request for services by a foreign reciprocating country or a foreign country with which a State has an arrangement described in section 459A(d) of the Social Security Act (42 U.S.C. 659a(d)) shall be treated as a State request.''.

(c) AUTHORITY TO PAROLE ALIENS EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT.—Section 212(d)(5) (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following:

''(C)(i) The Secretary of Homeland Security may, in the Secretary's discretion, parole into the United States, any alien who is inadmissible under subsection (a)(10)(F) if—

''(I) the Secretary places such alien into removal proceedings;

''(II) the alien demonstrates to the satisfaction of the Secretary that such parole is essential to the compliance and fulfillment of child support obligations;

''(III) the alien demonstrates that the alien has employment in the United States and is authorized by law for employment in the United States; and

''(IV) the alien is not inadmissible under any other provision of law.

''(ii) The Secretary of State may permit an alien described in clause (i) to present himself or herself at a port of entry for the limited purpose of seeking parole pursuant to clause (i).

''(iii) The Secretary of Homeland Security and the Secretary of State shall exercise the discretionary authority described in this subparagraph in a manner consistent with the objective of facilitating collection of payment of child support arrearages.

''(iv) For purposes of this subparagraph, unless waived by the alien, the Attorney General shall not enter a final order of removal—

''(I) during the 180-day period beginning on the date on which the Secretary of Homeland Security initially charges the alien as removable under subsection (a)(10)(F); or

''(II) during the pendency of State court proceedings involving the child support obligations of the alien.''.

(d) EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (9) the following:

''(10) one who is legally obligated under a judgment, decree, or order to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i))) and whose failure to pay such child support has resulted in arrearages that exceed the amount specified in section 454(31) of that Act (42 U.S.C. 654(31)), unless support payments under the judgment, decree, or order are satisfied or the alien is in compliance with an approved payment agreement.''.

(e) AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN VISA APPLICANTS AND ARRIVING ALIENS.—Section 235(d) (8 U.S.C. 1225(d)), as amended by section 128, is further amended by adding at the end the following:

''(6) AUTHORITY TO SERVE PROCESS IN CHILD SUPPORT CASES.—

''(A) IN GENERAL.—To the extent consistent with State law, immigration officers are authorized to serve, on any alien who is an applicant for admission to the United States, legal process with respect to—

''(i) any action to enforce a legal obligation of an individual to pay child support (as defined in section 459(i) of the Social Security Act (42 U.S.C. 659(i)); or

''(ii) any action to establish paternity.

''(B) LEGAL PROCESS DEFINED.—In this paragraph, the term 'legal process' means any writ, order, summons, or other similar process that is issued by—

''(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States; or

''(ii) an authorized official pursuant to an order of such a court or agency or pursuant to State or local law.''.

(f) AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS.—Section 453(h) of the Social Security Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

''(4) PROVISION OF INFORMATION ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law and in accordance with the requirements of subsection (b), upon the request of the Attorney General, Secretary of Homeland Security, or Secretary of State, the Secretary of Health and Human Services shall provide and transmit to authorized persons through the Federal Parent Locator Service, such information as the Secretary of Health and Human Services determines may aid the authorized person in establishing whether an alien is delinquent in the payment of child support.

''(B) PROHIBITION ON DISCLOSURE OF INFORMATION.—In no case may an authorized person permit use by, or disclosure to, any person (other than a sworn officer or employee of the United States Government for legitimate law enforcement purposes) of any information obtained under this paragraph through the Federal Parent Locator Service.

''(C) PENALTY.—Any person who willfully uses, publishes, or permits information to be disclosed in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil monetary penalty of not more than $5,000 for each such violation.

''(D) AUTHORIZED PERSON DEFINED.—As used in this paragraph, the term 'authorized person' means any administrative agency, immigration officer, or consular officer (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) having the authority to investigate or enforce the immigration and naturalization laws of the United States with respect to the legal entry and status of aliens.''.

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply to aliens who apply for benefits under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on or after such effective date.

SA 3332. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

''(3) FEES.—

''(A) VISA ISSUANCE FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application.

''(B) COMMUNITY RESPONSIBILITY AND ASSISTANCE FEE.—In addition to the fee required under subparagraph (A), the alien shall pay a $100 community responsibility and assistance fee, which shall be made available, in its entirety, to the State Criminal Alien Assistance Program established under section 241(i).

''(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

SA 3333. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 8, strike lines 16 through 22.

SA 3334. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike titles III, IV, V, and VI, and insert the following:

TITLE III—NONPARTISAN COMMISSION ON IMMIGRATION REFORM

SEC. 301. NONPARTISAN COMMISSION ON IMMIGRATION REFORM.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—

(1) ESTABLISHMENT.—Not later than May 1, 2006, the President shall establish a commission to be known as the Nonpartisan Commission on Immigration Reform (in this section referred to as the ''Commission'').

(2) COMPOSITION.—The Commission shall be composed of 9 members to be appointed as follows:

(A) 1 member who shall serve as Chairman, to be appointed by the President.

(B) 2 members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the House of Representatives.

(C) 2 members to be appointed by the minority leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the House of Representatives.

(D) 2 members to be appointed by the majority leader of the Senate who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the Senate.

(E) 2 members to be appointed by the minority leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the Senate.

(3) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made during the 45-day period beginning on May 1, 2006.

(4) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) TERM OF APPOINTMENT.—Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (2)(A) shall expire at noon on January 20, 2008, and the President shall appoint an individual to serve for the remaining life, if any, of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c);

(2) conduct a systematic and comprehensive review of this Nation's immigration laws, in accordance with subsection (c); and

(3) transmit to the Congress—

(A) not later than April 15, 2008, a first report describing the progress made in carrying out paragraphs (1) and (2); and

(B) not later than April 15, 2010, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional comprehensive changes that should be made with respect to immigration laws in the United States as the Commission deems appropriate, including, when applicable, such model legislative language for the consideration of Congress.

(c) CONSIDERATIONS.—

(1) GENERAL CONSIDERATIONS.—The Commission may investigate and make recommendations upon any subject that it determines would substantially contribute to the development of an equitable, efficient, and sustainable immigration system that will facilitate border security specifically and national security generally.

(2) GUEST WORKER PROGRAM.—The Commission shall analyze and make recommendations on the advisability of modifying the requirements for admission of nonimmigrants described in section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), including increasing the number of such nonimmigrants admitted to the United States and adopting a national guest worker program, and if, in the opinion of this Commission, such a modification or program should be adopted, then the Commission shall—

(A) set forth minimum requirements for such modification or program, including—

(i) the numerical limitations, if any, on such a program; and

(ii) the temporal limitations (in terms of participant duration), if any, on such a program;

(B) assess the impact and advisability of allowing aliens admitted under such section or participating in such a program to adjust their status from nonimmigrant to immigrant classifications; and

(C) determine whether and, if appropriate, to what degree, low-skilled enterprises should be included in a national guest worker program.

(3) PROJECT SUNSHINE.—The Commission shall analyze and make recommendations on the disposition of the unlawful alien population present in the United States, and such report shall—

(A) examine the impact of earned adjustment, amnesty, or similar programs on future illegal immigration;

(B) examine the ability, and advisability, of the United States Government to locate and deport individuals unlawfully present in the United States;

(C) assess the impact, advisability, and ability of earned adjustment, amnesty, or similar programs to locate and register individuals unlawfully present in the United States; and

(D) provide alternate solutions, if any, to the realm of options otherwise mentioned in this section.

(4) JUDICIAL REVIEW.—The Commission shall examine the operation of the relevant adjudicatory structures and mechanisms and make such recommendations as are necessary to ensure expediency of process consistent with applicable constitutional protections.

(5) INTERIOR ENFORCEMENT.—The Commission shall analyze current interior enforcement efforts and make such recommendations as are necessary to ensure viable interior enforcement, including issues surrounding worksite enforcement and the impact of inadequate interior enforcement on rural communities.

(d) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS–18 of the General Schedule. Each member of

the Commission who is such an officer or employee shall serve without additional pay.

(2) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99–603; 8 U.S.C. 1160 note) shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of such subsection (e) shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(3)(B), except that the Commission may continue to function until January 1, 2012, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

SA 3335. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike line 12 and all that follows through ''(L)'' on page 70, line 9, and insert the following;

(E) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

(F) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

(G)

On page 75, lines 14 and 15, strike '', including classified, sensitive, or national security information''.

On page 76, line 3, strike ''; and'' and all that follows through line 14, and insert a period.

On page 78, lines 7 and 8, strike '', including classified, sensitive, or national security information,''.

On page 80, strike line 5 and all that follows through ''(3)'' on page 81, line 20, and insert ''(1)''.

On page 129, strike line 14 and all that follows through ''(2)'' on line 22, and insert ''(1)''.

On page 130, line 3, strike ''(3)'' and insert ''(2)''.

On page 130, strike lines 11 through 13 and insert the following:

''(3) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to

On page 130, line 20, strike ''(i) ineligible'' and insert the following:

''(A) ineligible

On page 130, line 22, strike ''(ii) subject'' and insert the following:

''(B) subject

On page 131, line 1, strike ''(iii) subject'' and insert the following:

''(C) subject

On page 131, line 3, strike the period at the end and all that follows through ''Secretary'' on line 23.

On page 133, line 2, strike the period at the end and all that follows through ''protection'' on line 18.

SA 3336. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—RECRUITMENT AND RETENTION OF ADDITIONAL IMMIGRATION LAW ENFORCEMENT PERSONNEL

SEC. __01. MAXIMUM STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS.

Section 5379(b) of title 5, United States Code, is amended by adding at the end the following:

''(4) In the case of an employee (otherwise eligible for benefits under this section) who is serving as a full-time active-duty United States Border Patrol agent within the Department of Homeland Security—

''(A) paragraph (2)(A) shall be applied by substituting '$20,000' for '$10,000'; and

''(B) paragraph (2)(B) shall be applied by substituting '$80,000' for '$60,000'.''.

SEC. __02. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES FOR PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.

The Secretary of Homeland Security shall ensure that the authority to pay recruitment and relocation bonuses under section 5753 of title 5, United States Code, the authority to pay retention bonuses under section 5754 of such title, and any other similar authorities available under any other provision of law, rule, or regulation, are exercised to the fullest extent allowable in order to encourage service in the Department of Homeland Security.

SEC. __03. LAW ENFORCEMENT RETIREMENT COVERAGE FOR INSPECTION OFFICERS AND OTHER EMPLOYEES.

(a) AMENDMENTS.—

(1) LAW ENFORCEMENT OFFICERS.—Section 8401(17) of title 5, United States Code, is amended—

(A) in subparagraph (C)—

(i) by striking ''and'' at the end; and

(ii) by striking ''subparagraph (A) and (B)'' and inserting ''subparagraph (A), (B), (E), or (F)''; and

(B) by inserting after subparagraph (D) the following:

''(E) an employee (not otherwise covered by this paragraph)—

''(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

''(ii) who is authorized to carry a firearm; and

''(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;''.

(2) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(20) of title 5, United States Code, is amended in the matter preceding subparagraph (A) by inserting after ''position.'' the following: ''For the purpose of this paragraph, an employee described in the preceding sentence shall be considered to include an employee, not otherwise covered by this paragraph, who satisfies clauses (i) and (ii) of section 8401(17)(E) and an employee of the Internal Revenue Service the duties of whose position are as described in section 8401(17)(F).''.

(3) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subsection shall—

(A) take effect on the date of enactment of this Act; and

(B) apply only in the case of any individual first appointed (or seeking to be first appointed) as a law enforcement officer (as defined in the amendments) on or after that date.

(b) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(1) DEFINITIONS.—In this subsection:

(A) INCUMBENT.—The term ''incumbent'' means an individual who—

(i) is first appointed as a law enforcement officer before the date of enactment of this Act; and

(ii) is serving as a law enforcement officer on that date.

(B) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means an individual who satisfies the requirements of section 8331(20) or 8401(17) of title 5, United States Code, as a result of the amendments made by subsection (a).

(C) PRIOR SERVICE.—The term ''prior service'', with respect to an incumbent who retires from Government service, means any service performed before the date on which a written notice is to be submitted under paragraph (2)(B).

(D) SERVICE.—The term ''service'' means service performed as a law enforcement officer.

(2) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(A) IN GENERAL.—For purposes other than purposes described in subparagraph (B), service that is performed by an incumbent on or after the date of enactment of this Act shall be treated as service performed as a law enforcement officer, irrespective of the manner in which the service is treated under subparagraph (B).

(B) RETIREMENT.—For purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, service that is performed by an incumbent before, on, or after the date of enactment of this Act shall be treated as service performed as a law enforcement officer if an appropriate written notice of the election of the incumbent to retire from Government service is submitted to the Office of Personnel Management by the earlier of—

(i) the date that is 5 years after the date of enactment of this Act; or

(ii) the date of retirement of the incumbent.

(3) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) AMOUNT OF CONTRIBUTIONS.—An incumbent who makes an election described in paragraph (2)(B) may, with respect to prior service performed by the incumbent, contribute to the Civil Service Retirement and Disability Fund an amount equal to the difference between—

(i) the individual contributions that were actually made for that service; and

(ii) the individual contributions that would have been made for that service under the amendments made by subsection (a).

(B) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under subparagraph (A) is paid—

(i) all prior service of the incumbent shall remain fully creditable as law enforcement officer service; but

(ii) the resulting annuity shall be reduced in a manner similar to the manner described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(4) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) IN GENERAL.—If an incumbent makes an election under paragraph (2)(B), the agency in or under which the incumbent was serving at the time of any prior service shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under subparagraph (B) with respect to that service.

(B) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (above those actually paid) that would have been required if the amendments made by subsection (a) had been in effect.

(C) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this paragraph on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date on which a written notice is to be submitted under paragraph (2)(B).

(5) EXEMPTION FROM MANDATORY SEPARATION.—Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer before the end of the 3-year period beginning on the date of enactment of this Act.

(6) REGULATIONS.—The Office shall promulgate regulations to carry out this section, including—

(A) provisions in accordance with which interest on any amount under paragraph (3) or (4) shall be computed, based on section 8334(e) of title 5, United States Code; and

(B) provisions for the application of this subsection in the case of—

(i) any individual who—

(I) is first appointed as a law enforcement officer before the date of enactment of this Act; and

(II) serves as a law enforcement officer after the date of enactment of this Act; and

(ii) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual described in clause (i), who dies before making an election under paragraph (2)(B)), to the extent of any rights that would then be available to the decedent (if still living).

(7) RULE OF CONSTRUCTION.—Nothing in this subsection applies in the case of a reemployed annuitant.

SA 3337. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—RAPID RESPONSE MEASURES

SEC. __01. EMERGENCY DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.

(a) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents from the Secretary of Homeland Security, the Secretary is authorized, subject to subsections (b) and (c), to provide the State with up to 1,000 additional United States Border Patrol agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border and entering the United States at any location other than an authorized port of entry.

(b) CONSULTATION.—The Secretary of Homeland Security shall consult with the President upon receipt of a request under subsection (a), and shall grant it to the extent that providing the requested assistance will not significantly impair the Department of Homeland Security's ability to provide border security for any other State.

(c) COLLECTIVE BARGAINING.—Emergency deployments under this section shall be made in conformance with all collective bargaining agreements and obligations.

SEC. __02. ELIMINATION OF FIXED DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.

The Secretary of Homeland Security shall ensure that no United States Border Patrol agent is precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances where the temporary use of fixed deployment positions is necessary.

SEC. __03. HELICOPTERS AND POWER BOATS.

(a) IN GENERAL.—The Secretary of Homeland Security shall increase by not less than 100 the number of United States Border Patrol helicopters, and shall increase by not less than 250 the number of United States Border Patrol power boats. The Secretary of Homeland Security shall ensure that appropriate types of helicopters are procured for the various missions being performed. The Secretary of Homeland Security also shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(b) USE AND TRAINING.—The Secretary of Homeland Security shall establish an overall policy on how the helicopters and power boats described in subsection (a) will be used and implement training programs for the agents who use them, including safe operating procedures and rescue operations.

SEC. __04. CONTROL OF UNITED STATES UNITED STATES BORDER PATROL ASSETS.

The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

SEC. __05. MOTOR VEHICLES.

The Secretary of Homeland Security shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of at least one police-type vehicle per every 3 United States Border Patrol agents. Additionally, the Secretary of Homeland Security shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol. All vehicles will be chosen on the basis of appropriateness for use by the United States Border Patrol, and each vehicle shall have a ''panic button'' and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of an agent in distress. The police-type vehicles shall be replaced at least every 3 years.

SEC. __06. PORTABLE COMPUTERS.

The Secretary of Homeland Security shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

SEC. __07. RADIO COMMUNICATIONS.

The Secretary of Homeland Security shall augment the existing radio communications system so all law enforcement personnel working in every area where United States Border Patrol operations are conducted have clear and encrypted two-way radio communication capabilities at all times. Each portable communications device shall be equipped with a ''panic button'' and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of the agent in distress.

SEC. __08. HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.

The Secretary of Homeland Security shall ensure that each United States Border Patrol agent is issued a state-of-the-art handheld global positioning system device for navigational purposes.

SEC. __09. NIGHT VISION EQUIPMENT.

The Secretary of Homeland Security shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

SEC. __10. BORDER ARMOR.

The Secretary of Homeland Security shall ensure that every United States Border Patrol agent is issued high-quality body armor that is appropriate for the climate and risks faced by the individual officer. Each officer shall be allowed to select from among a variety of approved brands and styles. Officers shall be strongly encouraged, but not mandated, to wear such body armor whenever practicable. All body armor shall be replaced at least every 5 years.

SEC. __11. WEAPONS.

The Secretary of Homeland Security shall ensure that United States Border Patrol agents are equipped with weapons that are reliable and effective to protect themselves, their fellow officers, and innocent third parties from the threats posed by armed criminals. In addition, the Secretary shall ensure that the Department's policies allow all such officers to carry weapons that are suited to the potential threats that they face.

SEC. __12. UNIFORMS.

The Secretary of Homeland Security shall ensure that all United States Border Patrol agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SA 3338. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 204, line 8, insert ''with 50 or more employees that is'' after ''employer''.

SA 3339. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend

the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 17, strike ''(e)'' and insert the following:

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program, based at the Northern Border airbase in Great Falls, Montana, to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f)

SA 3340. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended—

(1) by striking ''the date of the enactment of the Legal Immigration Family Equity Act'' and inserting ''January 1, 2011''; and

(2) by striking ''3 years'' each place it appears and inserting ''180 days''.

SA 3341. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 295, strike line 12 and all that follows through page 296, line 8, and insert the following:

''(A) 290,000; and

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

''(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

''(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

''(I) the difference between—

''(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

''(bb) the number of employment-based visas actually used during that period; and

''(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

''(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.''.

On page 296, strike lines 9 through 18 and insert the following:

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''.

On page 320, strike lines 17 through 20 and insert the following:

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

''(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

''(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

''(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

''(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

''(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.''.

On page 321, strike lines 14 through 20 and insert the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 324, after line 22, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

''(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall—

''(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

''(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.''.

SA 3342. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 20 and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, autonomous unmanned ground vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, autonomous unmanned ground vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

SA 3343. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 4, insert ''autonomous unmanned ground vehicles,'' after ''vehicles,''.

On page 9, line 16, insert ''autonomous unmanned ground vehicles,'' after ''vehicles,''.

SA 3344. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY CERTIFICATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), beginning on the date of enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who illegally enters or entered the United States, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States, until the Secretary provides written certification to the President and Congress that the borders of the United States are reasonably sealed and secured.

(b) WAIVER AND IMPLEMENTATION.—The President may waive the certification requirement under subsection (a) and direct the Secretary to implement a new conditional nonimmigrant work authorization program or any similar or subsequent program described in that subsection, if the President determines that implementation of the program would strengthen the national security of the United States.

SA 3345. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for

comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 331, between lines 6 and 7, insert the following:

''(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section under any of the following circumstances:

''(A) CONVICTION OF CERTAIN CRIMES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

''(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

''(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

''(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

''(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

''(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

''(i) the conviction was in a single trial;

''(ii) the offenses arose from a single scheme of misconduct; or

''(iii) the offenses involved moral turpitude, .

''(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) is or has been—

''(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

''(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

''(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

''(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

''(ii) exercised immunity from criminal jurisdiction with respect to that offense;

''(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

''(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

''(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

''(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

''(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

''(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

''(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

''(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

''(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

''(H) CRIMINAL CONVICTIONS.—The alien has been convicted of any felony or at least 3 misdemeanors.

SA 3346. Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 331, between lines 6 and 7, insert the following:

''(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section under any of the following circumstances:

''(A) CONVICTION OF CERTAIN CRIMES.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

''(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

''(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

''(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

''(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

''(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

''(i) the conviction was in a single trial;

''(ii) the offenses arose from a single scheme of misconduct; or

''(iii) the offenses involved moral turpitude, .

''(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) is or has been—

''(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

''(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

''(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

''(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

''(ii) exercised immunity from criminal jurisdiction with respect to that offense;

''(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

''(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

''(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

''(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

''(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

''(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

''(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

''(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

''(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

''(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

''(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

''(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

SA 3347. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 374, strike lines 13 through 19 and insert the following:

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance—

(A) directly related to an application for adjustment of status under this section; or

(B) to nonimmigrant workers admitted to, or permitted to remain in, the United States under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) for forestry labor or services, if the legal assistance is related to wages, housing, transportation, and other employment rights provided in the specific contract of the worker under which the worker was admitted.

SA 3348. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99–603) is amended—

(1) by striking ''section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))'' and inserting ''item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))''; and

(2) by inserting ''or forestry'' after ''agricultural''.

SA 3349. Mr. BOND (for himself, Mr. ALEXANDER, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 316, strike line 2 and all that follows through page 323, line 24, and insert the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining a master's or doctorate degree or pursuing post-doctoral studies.''.

(b) CREATION OF J–STEM VISA CATEGORY.—Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is amended to read as follows:

''(J) an alien with a residence in a foreign country that the alien has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, and who—

''(i) is coming temporarily to the United States as a participant in a program (other than a graduate program described in clause (ii))designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if coming to the United States to participate in a program under which the alien will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien; or

''(ii) has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the physical or life sciences in the United States for the purpose of obtaining a master's or doctorate degree or pursuing post-doctoral studies.''.

(c) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (J)(ii), (L), or (V)''.

(d) REQUIREMENTS FOR F–4 OR J-STEM VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under subparagraph (F)(iv) or (J)(ii) of section 101(a)(15) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(e) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting ''(1)'' before ''No person'';

(2) by striking ''admission (i) whose'' and inserting the following: ''admission—

''(A) whose'';

(3) by striking ''residence, (ii) who'' and inserting the following: ''residence;

''(B) who'';

(4) by striking ''engaged, or (iii) who'' and inserting the following: ''engaged; or

''(C) who'';

(5) by striking ''training, shall'' and inserting the following: ''training,
''shall'';

(6) by striking ''United States: *Provided,* That upon'' and inserting the following: ''United States.

''(2) Upon'';

(7) by striking ''section 214(l): And provided further, That, except'' and inserting the following: ''section 214(l).

''(3) Except''; and

(8) by adding at the end the following:

''(4) An alien who qualifies for adjustment of status under section 214(m)(3)(C) shall not be subject to the 2-year foreign residency requirement under this subsection.''.

(f) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(g) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under subparagraph (J)(ii) or (F)(iv) of section 101(a)(15), or would have qualified for such nonimmigrant status if subparagraph (J)(ii) or (F)(iv) of section 101(a)(15) had been enacted before such alien's graduation;

''(B) the alien has earned a master's or doctorate degree or completed post-doctoral studies in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(h) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned a master's or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has a master's or doctorate degree, or completed post-doctoral studies, in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned a master's or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math.'';

SA 3350. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking ''Immigration and Naturalization Service'' and inserting ''Department of Homeland Security'' each place it appears; and

(2) by adding at the end the following:

''(d) ENFORCEMENT.—

''(1) INELIGIBILITY FOR FEDERAL LAW ENFORCEMENT AID.—Upon a determination that any person, or any Federal, State, or local government agency or entity, is in violation of subsection (a) or (b), the Attorney General shall not provide to that person, agency, or entity any grant amount pursuant to any law enforcement grant program carried out by any element of the Department of Justice, including the program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 241(i)), and shall ensure that no such grant amounts are provided, directly or indirectly, to such person, agency, or entity. In the case of grant amounts that otherwise would be provided to such person, agency, or entity pursuant to a formula, such amounts shall be reallocated among eligible recipients.

''(2) VIOLATIONS BY GOVERNMENT OFFICIALS.—In any case in which a Federal , State, or local government official is in violation of subsection (a) or (b), the government agency or entity that employs (or, at the time of the violation, employed) the official shall be subject to the sanction under paragraph (1).

''(3) DURATION.—The sanction under paragraph (1) shall remain in effect until the Attorney General determines that the person, agency, or entity has ceased violating subsections (a) and (b).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to grant requests pending on or after the date of the enactment of this Act.

SA 3351. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. COOPERATION WITH THE GOVERNMENT OF MEXICO.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 3352. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all that follows and insert the following:

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A) 290,000;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SA 3353. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all that follows, and insert the following:

(d) OTHER STUDIES AND REPORTS.—

(1) STUDY BY LABOR.—The Secretary of Labor shall conduct a study on a sector-by-sector basis on the need for guest workers and the impact that any proposed temporary worker or guest worker program would have on wages and employment opportunities of American workers.

(2) STUDY BY GAO.—The Comptroller General of the United States shall conduct a study regarding establishing minimum criteria for effectively implementing any proposed temporary worker program and determining whether the Department has the capability to effectively enforce the program. If the Comptroller General determines that the Department does not have the capability to effectively enforce any proposed temporary worker program, the Comptroller General shall determine what additional manpower and resources would be required to ensure effective implementation.

(3) STUDY BY THE DEPARTMENT.—The Secretary shall conduct a study to determine if the border security and interior enforcement measures contained in this Act are being properly implemented and whether they are effective in securing United States borders and curbing illegal immigration.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in cooperation with the Secretary of Labor and the Comptroller General of the United States, submit a report to Congress regarding the studies conducted pursuant to paragraphs (1), (2), and (3).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A) 290,000;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F–4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SA 3354. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 321, strike lines 14 through 20 and insert the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a field relating to science, technology, engineering, or math in the United States under a nonimmigrant visa during the 3-year period preceding the application of the alien for an immigrant visa under section 203(b).

SA 3355. Mr. ALEXANDER (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 320, strike lines 17 through 20 and insert the following:

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

''(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

''(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

''(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

''(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

''(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.''.

On page 324, after line 22, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

''(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall—

''(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

''(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.''.

SA 3356. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 21, and insert the following:

SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING—The Secretary shall construct a double- or triple-layered fence

(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing

the fencing, barriers, and roads described in subsections (a), (b) and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SA 3357. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 21, and insert the following:

"SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING—The Secretary shall construct not less than 700 additional miles or double- or triple-layered fencing at strategic locations along the southwest international border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (c)(1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) (b) and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''

SA 3358. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—IMMIGRATION LITIGATION REDUCTION

SEC. 701. CONSOLIDATION OF IMMIGRATION APPEALS.

(a) REAPPORTIONMENT OF CIRCUIT COURT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended in the item relating to the Federal Circuit by striking ''12'' and inserting ''15''.

(b) REVIEW OF ORDERS OF REMOVAL.—Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (2), by striking the first sentence and inserting ''The petition for review shall be filed with the United States Court of Appeals for the Federal Circuit.'';

(2) in paragraph (5)(B), by adding at the end the following: ''Any appeal of a decision by the district court under this paragraph shall be filed with the United States Court of Appeals for the Federal Circuit.''; and

(3) in paragraph (7), by amending subparagraph (C) to read as follows:

''(C) CONSEQUENCE OF INVALIDATION AND VENUE OF APPEALS.—

''(i) INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a).

''(ii) APPEALS.—The United States Government may appeal a dismissal under clause (i) to the United States Court of Appeals for the Federal Circuit within 30 days after the date of the dismissal. If the district court rules that the removal order is valid, the defendant may appeal the district court decision to the United States Court of Appeals for the Federal Circuit within 30 days after the date of completion of the criminal proceeding.''.

(c) REVIEW OF ORDERS REGARDING INADMISSABLE ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended by adding at the end the following new paragraph:

''(6) VENUE.—The petition to appeal any decision by the district court pursuant to this subsection shall be filed with the United States Court of Appeals for the Federal Circuit.''.

(d) EXCLUSIVE JURISDICTION.—Section 242(g) (8 U.S.C. 1252(g)) is amended—

(1) by striking ''Except''; and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) APPEALS.—Notwithstanding any other provision of law, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review a district court order arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States, including a district court order granting or denying a petition for writ of habeas corpus.''.

(e) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) EXCLUSIVE JURISDICTION.—Section 1295(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(15) of an appeal to review a final administrative order or a district court decision arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States.''.

(2) CONFORMING AMENDMENTS.—Such section 1295(a) is further amended—

(A) in paragraph (13), by striking ''and''; and

(B) in paragraph (14), by striking the period at the end and inserting a semicolon and ''and''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Court of Appeals for the Federal Circuit for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of additional attorneys for the such Court.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of this Act and shall apply to any final agency order or district court decision entered on or after the date of enactment of this Act.

SEC. 702. CERTIFICATE OF REVIEWABILITY.

(a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

''(C) BRIEFS.—

''(i) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this subparagraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(ii) UNITED STATES BRIEF.—The United States shall not be afforded an opportunity to file a brief in response to the alien's brief until a judge issues a certificate of reviewability as provided in subparagraph (D), unless the court requests the United States to file a reply brief prior to issuing such certification.''.

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding at the end the following new subparagraphs:

''(D) CERTIFICATE OF REVIEWABILITY.—

''(i) After the alien has filed a brief, the petition for review shall be assigned to one judge on the Federal Circuit Court of Appeals.

''(ii) Unless such judge issues a certificate of reviewability, the petition for review shall be denied and the United States may not file a brief.

''(iii) Such judge may not issue a certificate of reviewability under clause (ii) unless the petitioner establishes a prima facie case that the petition for review should be granted.

''(iv) Such judge shall complete all action on such certificate, including rendering judgment, not later than 60 days after the date on which the judge is assigned the petition for review, unless an extension is granted under clause (v).

''(v) Such judge may grant, on the judge's own motion or on the motion of a party, an extension of the 60-day period described in clause (iv) if—

''(I) all parties to the proceeding agree to such extension; or

''(II) such extension is for good cause shown or in the interests of justice, and the judge states the grounds for the extension with specificity.

''(vi) If no certificate of reviewability is issued before the end of the period described in clause (iv), including any extension under clause (v), the petition for review shall be denied, any stay or injunction on petitioner's removal shall be dissolved without further action by the court or the Government, and the alien may be removed.

''(vii) If such judge issues a certificate of reviewability under clause (ii), the Government shall be afforded an opportunity to file a brief in response to the alien's brief. The alien may serve and file a reply brief not later than 14 days after service of the Government brief, and the court may not extend this deadline except upon motion for good cause shown.

''(E) NO FURTHER REVIEW OF DECISION NOT TO ISSUE A CERTIFICATE OF REVIEWABILITY.—The decision of a judge on the Federal Circuit Court of Appeals not to issue a certificate of reviewability or to deny a petition for review, shall be the final decision for the Federal Circuit Court of Appeals and may not be reconsidered, reviewed, or reversed by the such Court through any mechanism or procedure.''.

SA 3359. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 13 through 20 and insert the following:

SEC. 105. PORTS OF ENTRY.

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent the number of ports of entry along the southwestern border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

On page 13, between lines 5 and 6 insert the following:

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

On page 13, line 6, strike ''(c)'' and insert ''(d)''.

On page 13, line 11, strike ''(d)'' and insert ''(e)''.

On page 13, line 18, strike ''(e)'' and insert ''(f)''.

SA 3360. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 248, line 11, insert ''**AND WIDOWS**'' after ''**CHILDREN**''.

On page 249, line 3, insert ''or, if married for less than 2 years at the time of the citizen's death, proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit,'' after ''death''.

On page 249, after line 25, add the following:

(c) TRANSITION PERIOD.—

(1) IN GENERAL.—In applying clause (iii) of section 201(b)(2)(A) of the Immigration and Nationality Act, as added by subsection (a), to an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may (notwithstanding the deadlines specified in such clause) file the classification petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after the date of the enactment of this Act.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act based solely upon the alien's lack of classification as an immediate relative (as defined by 201(b)(2)(A)(ii) of the Immigration and Nationality Act) due to the citizen's death—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General's discretionary authority under section 212(d)(5) of such Act; and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(d) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) APPLICATION FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, PARENTS, AND CHILDREN.—

''(1) IN GENERAL.—Any alien described in paragraph (2) who applies for adjustment of status before the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

''(2) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

''(D) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).''.

(e) TRANSITION PERIOD.—

(1) IN GENERAL.—Notwithstanding a denial of an application for adjustment of status for an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, if such motion is filed not later than 2 years after such date of enactment.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General's discretionary authority under section 212(d)(5) of the Immigration and Nationality Act; and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(f) PROCESSING OF IMMIGRANT VISAS.—Section 204(b) (8 U.S.C. 1154) is amended—

(1) by striking ''After an investigation'' and inserting the following:

''(1) IN GENERAL.—After an investigation''; and

(2) by adding at the end the following:

''(2) DEATH OF QUALIFYING RELATIVE.—

''(A) IN GENERAL.—Any alien described in paragraph (2) whose qualifying relative died before the completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred. An immigrant visa issued before the death of the qualifying relative shall remain valid after such death.

''(B) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

''(i) is an immediate relative (as described in section 201(b)(2)(A));

''(ii) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

''(iv) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).''.

(g) NATURALIZATION.—Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting ''(or, if the spouse is deceased, the spouse was a citizen of the United States)'' after ''citizen of the United States''.

SA 3361. Mr. GRASSLEY (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—Any employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor shall be considered to have hired the alien for employment in the united States in violation of paragraph (1)(A). Any employer who uses a contract, subcontract, or exchange to obtain the labor of a person in the United States shall be in violation of paragraph (1)(B) unless—

''(A) the employer includes in the contract or subcontract or other binding agreement a requirement that the person hiring the alien shall comply with this section and keep records necessary to demonstrate compliance with this section; and

''(B) the employer exercises reasonable diligence to ensure that person complies with this section.

''(4) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for such employment by meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under paragraph (3) or (4) of subsection (d).

''(v) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's social security account number card issued by the Commissioner of Social Security (other than a card which bears the legend 'not valid for employment' or 'valid for work only with DHS authorization').

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that satisfies the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) employee identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency or department of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iii) in the case of an individual who is unable to obtain a document described in clause (i) or (ii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification;

''(II) contains the individual's photograph or information including the individual's name, date of birth, gender, and address; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, or to be recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents and reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 business days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) EXTENSION OF TIME.—The Secretary, in consultation with the Commissioner of Social Security, may extend the 10-day period described in clause (i) for no more than 180 days if the information needed to resolve an initial negative response cannot be obtained by or submitted to the Secretary or the Commissioner and verified or entered into the System within such 10-day period.

''(iii) AUTOMATIC EXTENSION.—If the most recent previous report submitted by the Comptroller General of the United States under paragraph (12) includes an assessment that the System is not able to issue, during a period that averages 10 days or less, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States, the Secretary shall automatically extend the 10-day period referred to in clause (i) to a period of not less than 180 days.

''(iv) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer;

''(iii) to track and record any occurrence when the System is inoperable;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability;

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from using the System to engage in unlawful discriminatory practices, based on national origin or citizenship status; and

''(vii) to establish a process to allow an individual to verify the individual's employment eligibility prior to obtaining or changing employment to facilitate the updating and correction of information used by the System.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraph (4), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require any employer or class of employers to participate in the System with respect to employees hired prior to, on, or after such date of enactment if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on critical infrastructure, national security, or homeland security needs.

''(B) REMAINING EMPLOYERS.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is 18 months after the date that funds are appropriated and made available to the Secretary to implement this subsection.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable causes to believe that the employer has engaged in violations of the immigration laws.

''(5) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in paragraphs (3) and (4) prior to the effective date of such requirements.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's name and date of birth;

''(II) the individual's social security account number; and

''(III) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such alien identification or authorization number that the Secretary shall require;

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) INITIAL INQUIRY.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and shall provide the individual with detailed information about the right to contest the tentative nonconfirmation and the procedures

established by the Secretary and the Commissioner of Social Security for contesting such nonconfirmation.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 business days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice under procedures prescribed by the Secretary, in consultation with the Commissioners of Social Security, not later than 10 business days after receiving the notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(iii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than such tentative nonconfirmation.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) CONSTRUCTION.—Nothing in this section shall be construed to limit the right of an individual who claims to be a national of the United States to pursue that claim as provided for in section 360(a).

''(9) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(10) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under any provision of law.

''(11) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(12) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

''(B) PURPOSE.—The study shall evaluate the accuracy, integrity, and impact of the System.

''(C) REPORT.—Not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within 10 days, including the assessment described in paragraph (2)(C)(iii).

''(ii) An assessment of the privacy and security of the System and its impact on identity fraud or the misuse of personal data.

''(iii) An assessment of the impact of the System on the employment of unauthorized aliens and employment discrimination based on national origin or citizenship.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsections (c) and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternate action under this subparagraph shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring as a condition of conducting, continuing, or expanding a business that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C.

1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)''.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

''(I)(i) The Commissioner of Social Security shall establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraphs (2)(B) and (2)(C) of such subsection—

''(I) a determination of whether the name and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(II) a determination of whether such social security account number was issued to such individual;

''(III) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(V) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(VI) a confirmation notice or a nonconfirmation notice described in such paragraph (2)(B) or (2)(C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO MATCH NOTICES.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 who has received written notice from the Commissioner of Social Security during calendar year 2005, 2006, or 2007 that such person reported remuneration on such a return—

''(I) with more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) with more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe is the result of identity fraud due to the use by multiple persons filing such returns of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

''(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 and for which the Commissioner of Social Security has reason to believe is not recorded as participating in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Upon certification by the Secretary of Homeland Security that each person identified by such request based on the records of the Department of Homeland Security is not recorded as participating in the System, taxpayer identity information of all employees (within the meaning of section 6051) of such person hired after the date which such person is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Upon certification by the Secretary of Homeland Security that each person identified by such request based on the records of the Department of Homeland Security is designated by the Secretary of Homeland Security under section 274A(d)(3)(A) of the Immigration and Nationality Act or is required by the Secretary of Homeland Security to participate in the System under section 274A(d)(4)(B) of such Act, taxpayer identity information of all employees (within the meaning of section 6051) of such person.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

''(I) the earlier of the date such person volunteers to participate in the System or the date such person is required to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary in—

''(i) establishing and enforcing employer participation in the System,

''(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, and 274C of the Immigration and Nationality Act, and

''(iii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3) of such Code is amended by striking ''or (18)'' and inserting ''(18), or (21)''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)'', and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds

from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(4) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2007.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—

(1) INCREASE IN NUMBER OF INVESTIGATORS.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(2) USE OF ENFORCEMENT PERSONNEL.—The Secretary shall ensure that not less than 20 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement of the Department to enforce the immigration and customs laws shall be used to enforce compliance with section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 301(a).

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SA 3362. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VII—IMMIGRATION LITIGATION REDUCTION

Subtitle A—Appeals and Review

SEC. 701. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) LITIGATION ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(2) UNITED STATES ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys' office to litigate immigration cases in the Federal courts.

(3) IMMIGRATION JUDGES.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 20 the number of full-time immigration judges compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 80 the number of positions for personnel to support the immigration judges described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year.

(4) STAFF ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 10 the number of positions for full-time staff attorneys in the Board of Immigration Appeals compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 10 the number of positions for personnel to support the staff attorneys described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

(c) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, increase by not less than 50 the number of attorneys in the Federal Defenders Program who litigate criminal immigration cases in the Federal courts.

Subtitle B—Immigration Review Reform

SEC. 711. DIRECTOR OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

Notwithstanding any other provision of law or regulation, the Director of the Executive Office for Immigration Review of the Department of Justice described in section 1003.0 of title 8, Code of Federal Regulations (or any corresponding similar regulation) shall be appointed by the President with the advice and consent of the Senate.

SEC. 712. BOARD OF IMMIGRATION APPEALS.

(a) COMPOSITION AND APPOINTMENT.—Notwithstanding any other provision of law or regulation, the Board of Immigration Appeals of the Department of Justice described in section 1003.1 of title 8, Code of Federal Regulations (or any corresponding similar regulation) (referred to in this section as the ''Board''), shall be composed of a Chair and 22 other immigration appeals judges, appointed by the Director of the Executive Office for Immigration Review, in consultation with the Attorney General.

(b) TERM OF APPOINTMENT.—The term of appointment of each member of the Board shall be 6 years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office, a Board member may continue to act until a successor has been appointed and qualified.

(c) CURRENT MEMBERS.—Each individual who is serving as a member of the Board on the date of the enactment of this Act shall be appointed to the Board utilizing a system of staggered terms of appointment based on seniority.

(d) QUALIFICATIONS.—Each member of the Board, including the Chair, shall—

(1) be an attorney in good standing of a bar of a State or the District of Columbia;

(2) have at least—

(A) 7 years of professional, legal expertise; or

(B) 5 years of professional, legal expertise in immigration and nationality law; and

(3) meet the minimum qualification requirements of an administrative law judge under title 5, United States Code.

(e) DUTIES OF THE CHAIR.—The Chair of the Board, subject to the supervision of the Director, shall—

(1) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(2) direct, supervise, and establish internal operating procedures and policies of the Board;

(3) designate a member of the Board to act as Chair if the Chair is absent or unavailable;

(4) adjudicate cases as a member of the Board;

(5) form 3-member panels as provided by subsection (i);

(6) direct that a case be heard en banc as provided by subsection (j); and

(7) exercise such other authorities as the Director may provide.

(f) BOARD MEMBERS DUTIES.—In deciding a case before the Board, the Board—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with the authority provided in this section and any regulations established in accordance with this section.

(g) JURISDICTION.—

(1) IN GENERAL.—The Board shall have jurisdiction to hear appeals described in section 1003.1(b) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(2) LIMITATION.—The Board shall not have jurisdiction to hear an appeal of a decision of an immigration judge for an order of removal entered in absentia.

(h) SCOPE OF REVIEW.—

(1) FINDINGS OR FACT.—The Board shall—

(A) accept findings of fact determined by an immigration judge, including findings as to the credibility of testimony, unless the findings are clearly erroneous; and

(B) give due deference to an immigration judge's application of the law to the facts.

(2) QUESTIONS OF LAW.—The Board shall review de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of immigration judges.

(3) APPEALS FROM OFFICERS' DECISIONS.—The Board shall review de novo all questions arising in appeals from decisions issued by officers of the Department.

(4)(A) PROHIBITION ON FACT FINDING.—Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board may not engage in fact-finding in the course of deciding appeals.

(B) REMAND.—A party asserting that the Board cannot properly resolve an appeal without further fact-finding shall file a motion for remand. If further fact-finding is needed in a case, the Board shall remand the proceeding to the immigration judge or, as appropriate, to the Secretary.

(i) PANELS.—

(1) IN GENERAL.—Except as provided in paragraph (5) all cases shall be subject to review by a 3-member panel. The Chair shall divide the Board into 3-member panels and designate a presiding member.

(2) AUTHORITY.—Each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before it.

(3) QUORUM.—Two members appointed to a panel shall constitute a quorum for such panel.

(4) CHANGES IN COMPOSITION.—The Chair may from time to time make changes in the composition of a panel and of the presiding member of a panel.

(5) PRESIDING MEMBER DECISIONS.—The presiding member of a panel may act alone on any motion as provided in paragraphs (3) and (4) of subsection (k) and may not otherwise dismiss or determine an appeal as a single Board member.

(j) EN BANC PROCESS.—

(1) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chair—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(2) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(k) DECISIONS OF THE BOARD.—

(1) BINDING DECISIONS.—

(A) IN GENERAL.—A precedent decision of the Board shall be binding on the Secretary and the immigration judges unless such decision is modified or reversed by the Court of Appeals for the Federal Circuit or by the United States Supreme Court.

(B) APPEAL BY THE SECRETARY.—The Secretary, with the concurrence of the Attorney General, may appeal a decision of the Board under this section to the Court of Appeals for the Federal Circuit.

(2) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if—

(A) the decision of the immigration judge resolved all issues in the case;

(B) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(C) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(D) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(3) SUMMARY DISMISSAL OF APPEALS.—The 3-member panel or the presiding member acting alone may summarily dismiss any appeal or portion of any appeal in any case which—

(A) the party seeking the appeal fails to specify the reasons for the appeal;

(B) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(C) the appeal is from an order that granted such party the relief that had been requested;

(D) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(E) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law.

(4) UNOPPOSED DISPOSITIONS.—The 3-member panel or the presiding member acting alone may—

(A) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(B) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(5) NOTICE OF RIGHT TO APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in the United States Court of Appeals for the Federal Circuit within 30 days of the date of the decision.

SEC. 713. IMMIGRATION JUDGES.

(a) APPOINTMENT OF CHIEF IMMIGRATION JUDGE.—Notwithstanding any other provision of law or regulation, the Chief Immigration Judge described in section 1003.9 of title 8, Code of Federal Regulations (or any corresponding similar regulation) shall be appointed by the Director of the Executive Officer for Immigration Review, in consultation with the Attorney General.

(b) APPOINTMENT OF IMMIGRATION JUDGES.—

(1) IN GENERAL.—Immigration judges shall be appointed by the Director of the Executive Office for Immigration Review, in consultation with the Chief Immigration Judge and the Chair of the Board of Immigration Appeals.

(2) TERM OF APPOINTMENT.—The term of appointment of each immigration judge shall be 7 years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office, the immigration judge may continue to act until a successor has been appointed and qualified.

(3) CURRENT MEMBERS.—Each individual who is serving as an immigration judge on the date of the enactment of this Act shall be appointed as an immigration judge utilizing a system of staggered terms of appointment based on seniority.

(4) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 5 years of professional, legal expertise or at least 3 years professional or legal expertise in immigration and nationality law.

(c) JURISDICTION.—An Immigration judge shall have the authority to hear matters related to any removal proceeding pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) described in section 1240.1(a) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(d) DUTIES OF IMMIGRATION JUDGES.—In deciding a case, an immigration judge—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with their authorities under this section and regulations established in accordance with this section.

(e) REVIEW.—Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction.

SEC. 714. REMOVAL AND REVIEW OF JUDGES.

(a) IN GENERAL.—Immigration judges and members of the Board of Immigration Appeals may be removed from office, subject to review by the Merit Systems Protection Board, only for good cause—

(1) by the Director of the Executive Office for Immigration Review, in consultation with the Chair of the Board, in the case of the removal of a member of the Board; or

(2) by the Director, in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

(b) INDEPENDENT JUDGMENT.—No immigration judge or member of the Board may be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by this subtitle.

SEC. 715. LEGAL ORIENTATION PROGRAM.

(a) CONTINUED OPERATION.—The Director of the Executive Office for Immigration Review shall continue to operate a legal orientation program to provide basic information about immigration court procedures for immigration detainees and shall expand the legal orientation program to provide such information on a nationwide basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out such legal orientation program.

SEC. 716. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this subtitle.

SA 3363. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NUMERICAL LIMITATIONS ON H–2A VISAS.

Section 214(g)(1) (8 U.S.C. 1184(g)(1)), as amended by sections 408(g) and 508(c)(1), is further amended—

(1) in subparagraph (A)(ix), by striking ''or'' at the end;

(2) in subparagraph (B), by striking ''and'' at the end;

(3) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(D) under section 101(a)(15)(H)(ii)(a) may not exceed 90,000.''.

SA 3364. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GRANTS FOR LOCAL PROGRAMS RELATING TO UNDOCUMENTED IMMIGRANTS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to award competitive grants to units of local government for innovative programs that address the increased expenses incurred in responding to the needs of undocumented immigrants.

(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section to a unit of local government in an amount which exceeds $5,000,000.

(c) USE OF GRANT FUNDS.—Grants awarded under this section may be used for activities relating to the undocumented immigrant population residing in the locality, including—

(1) law enforcement activities;

(2) uncompensated health care;

(3) public housing;

(4) inmate transportation; and

(5) reduction in jail overcrowding.

(d) APPLICATION.—Each unit of local government desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3365. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING REIMBURSING STATES FOR THE COSTS OF UNDOCUMENTED IMMIGRANTS.

(a) FINDINGS.—The Senate finds the following:

(1) It is the obligation of the Federal Government to adequately secure the borders of the United States and prevent the flow of undocumented immigrants into the United States.

(2) Despite the fact that, according to the Congressional Research Service, Border Patrol agents apprehend more than 1,000,000 individuals each year trying to illegally enter the United States, the net growth in the number of unauthorized immigrants entering the United States has increased by approximately 500,000 each year.

(3) The costs associated with incarcerating undocumented criminal immigrants and providing education and healthcare to undocumented immigrants place a tremendous financial burden on States and local governments.

(4) In 2003, States received compensation from the Federal Government, through the State criminal alien assistance program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), for incarcerating approximately 74,000 undocumented criminal immigrants.

(5) In 2003, 700 local governments received compensation from the Federal Government, through the State criminal alien assistance program, for incarcerating approximately 138,000 undocumented criminal immigrants.

(6) It is estimated that Federal Government payments through the State criminal alien assistance program reimburse States and local governments for 25 percent or less of the actual costs of incarcerating the undocumented criminal immigrants.

(7) It is estimated that providing kindergarten through grade 12 education to undocumented immigrants costs States more than $8,000,000,000 annually.

(8) It is further estimated that more than $1,000,000,000 is spent on healthcare for undocumented immigrants each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) States should be fully reimbursed by the Federal Government for the costs associated with providing education and healthcare to undocumented immigrants; and

(2) the program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) should be fully funded, for each of the fiscal years 2007 through 2012, at the levels authorized for such program under section 241(i)(5) of such Act (as amended by section 218(b)(2) of this Act).

SA 3366. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 327, beginning on line 21, strike all through page 328, line 16, and insert the following:

''(c) SPOUSES AND CHILDREN AND CERTAIN OTHER INDIVIDUALS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

''(1) adjust the status to that of a conditional nonimmigrant under this section for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under this section;

''(2) adjust the status to that of a conditional nonimmigrant under this section for an alien who, before January 7, 2004, was the spouse or child of an alien who is provided conditional nonimmigrant status under this section, or is eligible for such status, if—

''(A) the termination of the qualifying relationship was connected to domestic violence; and

''(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided conditional nonimmigrant status under this section; or

''(3) adjust the status to that of a conditional immigrant under this section for an individual who was present in the United States on January 7, 2004, and is the national of a country designated at that time for protective status pursuant to section 244.

SA 3367. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 32, line 7, before ''The Secretary'' insert the following: ''(a) IN GENERAL.—''.

On page 32, between lines 20 and 21, insert the following:

(b) COMMUNICATION SYSTEM GRANTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''demonstration project'' means the demonstration project established under paragraph (2)(A); and

(B) the term ''emergency response provider'' has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(2) IN GENERAL.—

(A) ESTABLISHMENT.—There is established in the Department an ''International Border Community Interoperable Communications Demonstration Project''.

(B) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in a demonstration project.

(C) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) PROJECT REQUIREMENTS.—The demonstration projects shall—

(A) address the interoperable communications needs of border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(B) foster interoperable communications—

(i) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(ii) with similar agencies in Canada and Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of interoperable communications equipment;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(G) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall distribute funds under this subsection to each community participating in a demonstration project through the State, or States, in which each community is located.

(B) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to

the local governments and emergency response providers participating in a demonstration project selected by the Secretary.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this subsection.

(6) REPORTING.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration projects under this subsection.

SA 3368. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of the Department of Homeland Security, shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides regular daily services with respect to aliens who are illegally present in the United States. Such expansion should include—

(1) increasing and standardizing the daily operations of such System with buses and air hubs in 3 geographic regions;

(2) allocating a set number of seats each day for such aliens for each metropolitan area;

(3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and

(4) requiring an annual report that analyzes of the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

SA 3369. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 332, strike lines 6 through 18, and insert the following:

''(1) PERIOD OF AUTHORIZED STAY.—The period of authorized stay for a conditional nonimmigrant described in this section shall be 2 years. The Secretary may extend such period for an unlimited number of 2-year periods if the alien remains eligible for conditional nonimmigrant classification and status under this section.

On page 335, between lines 11 and 12, insert the following:

''(h) PROHIBITION ON ADJUSTMENT OF STATUS.—An alien granted conditional nonimmigrant work authorization and status under this section and the spouse of such alien are ineligible for any additional adjustment of status. The child of such an alien may be granted a change of status under subtitle C of title VI of the Comprehensive Immigration Reform Act of 2006.

Strike section 602.

SA 3370. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE SECURITY OF THE LAND AND SEA BORDERS OF THE UNITED STATES.

It is the sense of the Senate that—

(1) the net growth of 500,000 unauthorized aliens entering the United States each year, and the potential for terrorists to take advantage of the porous borders of the United States, represent a clear and present danger to the national security of the United States;

(2) the inability to secure the international borders of the United States has given rise to an immigration crisis that has profound social, legal, and political ramifications;

(3) while assessing the identity and location of the estimated 11,000,000 unauthorized aliens currently in the United States, the Federal Government must simultaneously act to secure the borders and prevent further illegal entry;

(4) the President of the United States should demonstrate the highest level of commitment to securing the land and sea borders of the United States by using all the resources at the disposal of the President, including—

(A) declaring that a state of emergency exists in States that share an international border with Mexico and Canada until such time as the President determines that—

(i) the additional resources and manpower provided under this Act are deployed; and

(ii) there is a significant reduction in the number of illegal aliens entering the United States;

(B) immediately deploying the Armed Forces, including the National Guard, to secure those international borders;

(C) requiring each Cabinet Secretary to detail the resources and capabilities that their respective Federal agencies have available for use in securing the land and sea borders of the United States; and

(D) facilitating the development of a program to enable all willing citizens of the United States to contribute to securing the land and sea borders of the United States; and

(5) the President of Mexico should be encouraged to use all authority within the power of the President of Mexico to secure the international border between the United States and Mexico from illegal crossings.

SA 3371. Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. ____. NORTH AMERICAN TRAVEL CARDS.

(a) FINDINGS.—Congress makes the following findings:

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and the United States and Mexico, with approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued an estimated 10,100,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) NORTH AMERICAN TRAVEL CARDS.—

(1) ISSUANCE.—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall, not later than December 31, 2007, issue to a citizen of the United States who submits an application in accordance with paragraph (4) a travel document that will serve as a North American travel card.

(2) APPLICABILITY.—A North American travel card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(3) LIMITATION ON USE.—A North American travel card may only be used for the purpose of international travel by United States citizens through land border ports of entry, including ferries, between the United States and Canada and the United States and Mexico.

(4) APPLICATION FOR ISSUANCE.—To be issued a North American travel card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the same information as is required to determine citizenship, identity, and eligibility for issuance of a United States passport.

(5) TECHNOLOGY.—

(A) EXPEDITED TRAVELER PROGRAMS.—To the maximum extent practicable, a North American travel card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as NEXUS, NEXUS AIR, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the technology to add expedited travel features to the North American travel card is not developed by that date.

(B) TECHNOLOGY.—The Secretary of Homeland Security and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department of Homeland Security, allows for future technological innovations, and ensures maximum facilitation at the northern and southern border.

(6) SPECIFICATIONS FOR CARD.—A North American travel card shall be easily portable and durable. The Secretary of State and the Secretary of Homeland Security shall consult regarding the other technical specifications of the card, including whether the security features of the card could be combined with other existing identity documentation.

(7) FEE.—Except as in provided in paragraph (8), an applicant for a North American travel card shall submit an application under paragraph (4) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Fees for a North American travel card shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended. The fee for the North American travel card shall not exceed

$20, of which not more than $2 shall be allocated to the United States Postal Service for postage and other application processing functions. Such fee shall be waived for children under 16 years of age.

(c) FOREIGN COOPERATION.—In order to maintain and encourage cross-border travel and trade, the Secretary of State and the Secretary of Homeland Security shall use all possible means to coordinate with the appropriate representatives of foreign governments to encourage their citizens and nationals to possess, not later than the date at which the certification required by subsection (j) is made, appropriate documentation to allow such citizens and nationals to cross into the United States.

(d) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the North American travel card and to facilitate the acquisition of a passport or North American travel card. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the establishment of at least 200 new passport acceptance facilities, with emphasis on facilities located near international borders;

(4) the collection and analysis of data to measure the success of the public promotion plan; and

(5) additional measures as appropriate.

(e) ACCESSIBILITY.—In order to make the North American travel card easily obtainable, an application for a North American travel card shall be accepted in the same manner and at the same locations as an application for a passport.

(f) EXPEDITED TRAVEL PROGRAMS.—To the maximum extent practicable, the Secretary of Homeland Security shall expand expedited traveler programs carried out by the Secretary to all ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be entered into a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists.

(g) ALTERNATIVE OPTIONS.—

(1) IN GENERAL.—In order to give United States citizens as many secure, low-cost options as possible for travel within the Western Hemisphere, the Secretary of Homeland Security shall continue to pursue additional alternative options, such as NEXUS, to a passport that meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevent Act (Public Law 108–458; 8 U.S.C. 1185 note).

(2) FEASIBILITY STUDY.—Not later than 120 days after the date of enactment of this Act, the Congressional Budget Office shall submit to the Committee on Homeland Security and Government Affairs and the Committee on Foreign Relations of the Senate and the Committee on Homeland Security and the Committee on International Relations of the House of Representatives, a study on the feasibility of incorporating into a driver's license, on a voluntary basis, information about citizenship, in a manner that enables a driver's license which meets the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13) to serve as an acceptable alternative document to meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act. Such study shall include a description of how such a program could be implemented, and shall consider any cost advantage of such an approach.

(h) IDENTIFICATION PROCESS .—The Secretary of Homeland Security shall have appropriate authority to develop a process to ascertain the identity of and make admissibility determinations for individuals who arrive at the border without proper documentation.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a North American travel card.

(j) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) until the date that is 3 months after the Secretary of State and the Secretary of Homeland Security certify to Congress that—

(1) North American travel cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending not earlier than 10 days prior to the date of certification;

(2) North American travel cards are provided to applicants, on average, within 4 weeks of application;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept North American travel cards at all United States border crossings;

(4) the outreach plan described in subsection (d) has been implemented and deemed to have been successful according to collected data; and

(5) a successful pilot has demonstrated the effectiveness of the North American travel card program.

(k) REPORTS.—

(1) REPORTS ON THE ISSUANCE OF NORTH AMERICAN TRAVEL CARDS.—The Secretary of State shall, on a quarterly basis during the first year of issuance of North American travel cards, submit to Congress a report containing information relating to the number of North American travel cards issued during the immediately preceding quarter or year, as appropriate, and the number of United States citizens in each State applying for such cards.

(2) REPORT ON PRIVATE COLLABORATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State and the Secretary shall report to Congress on their efforts to solicit policy suggestions and the incorporation of such suggestions into the implementation strategy from the private sector on the implementation of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note). The report should include the private sector's recommendations concerning how air, sea, and land travel between countries in the Western Hemisphere can be improved in a manner that establishes the proper balance between national security, economic well being, and the particular needs of border communities.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

SA 3372. Mrs. CLINTON (for herself, Mr. OBAMA, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 245, strike line 4 and insert the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There

On page 245, strike line 11 and insert the following:

''218A and 218B.

''(2) USE OF FEES FOR GRANT PROGRAM.—Amounts deposited in the State Impact Assistance Account under paragraph (1) shall remain available to the Secretary until expended for use for the State Impact Assistance Grant Program established under paragraph (3)(A).

''(3) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

''(A) ESTABLISHMENT.—Not later than January 1 of each year beginning after the date of enactment of this subsection, the Secretary, in cooperation with the Secretary of Health and Human Services (referred to in this paragraph as the 'Secretary'), shall establish a State Impact Assistance Grant Program, under which the Secretary shall make grants to States for use in accordance with subparagraph (D).

''(B) AVAILABLE FUNDS.—For each fiscal year beginning after the date of enactment of this subsection, the Secretary shall use ½ of the amounts deposited into the State Impact Assistance Account under paragraph (1) during the preceding fiscal year to provide grants under this paragraph.

''(C) ALLOCATION.—The Secretary shall allocate grants under this paragraph as follows:

''(i) NONCITIZEN POPULATION.—

''(I) IN GENERAL.—Subject to subclause (II), 80 percent shall be allocated to States on a pro-rata basis according to the ratio that, based on the most recent year for which data of the Bureau of the Census exists—

''(aa) the noncitizen population of the State; bears to

''(bb) the noncitizen population of all States.

''(II) MINIMUM AMOUNT.—Notwithstanding the formula under subclause (I), no State shall receive less than $5,000,000 under this clause.

''(ii) HIGH GROWTH RATES.—20 percent shall be allocated on a pro-rata basis among the 20 States with the largest growth rate in noncitizen population, as determined by the Secretary, according to the ratio that, based on the most recent year for which data of the Bureau of the Census exists—

''(I) the growth rate in the noncitizen population of the State during the most recent 3-year period for which data is available; bears to

''(II) the combined growth rate in noncitizen population of the 20 States during the 3-year period described in subclause (I).

''(D) USE OF FUNDS.—A State shall use a grant received under this paragraph to return to local governments, organizations, and entities moneys for the costs of providing health services, educational services, and public safety services to noncitizen communities.

''(E) ADMINISTRATION.—A local government, organization, or entity may provide services described in subparagraph (D) directly or pursuant to contracts with the State or another entity, including—

''(i) a unit of local government;

''(ii) a public health provider, such as a hospital, community health center, or other appropriate entity;

''(iii) a local education agency; and

''(iv) a charitable organization.

''(F) REFUSAL.—

''(i) IN GENERAL.—A State may elect to refuse any grant under this paragraph.

''(ii) ACTION BY SECRETARY.—On receipt of notice of a State of an election under clause (i), the Secretary shall deposit the amount of the grant that would have been provided to the State into the State Impact Assistance Account.

''(G) REPORTS.—

''(i) IN GENERAL.—Not later than March 1 of each year, each State that received a grant under this paragraph during the preceding fiscal year shall submit to the Secretary a report in such manner and containing such information as the Secretary may require, in accordance with clause (ii).

''(ii) INCLUSIONS.—A report under clause (i) shall include a description of—

''(I) the services provided in the State using the grant;

''(II) the amount of grant funds used to provide each service and the total amount available during the applicable fiscal year from all sources to provide each service; and

''(III) the method by which the services provided using the grant addressed the needs of communities with significant and growing noncitizen populations in the State.

''(H) COLLABORATION.—In promulgating regulations and issuing guidelines to carry out this paragraph, the Secretary shall collaborate with representatives of State and local governments.

''(I) EFFECT OF PARAGRAPH.—

''(i) ENFORCEMENT OF FEDERAL IMMIGRATION LAW.—Nothing in this paragraph authorizes any State or local law enforcement agency or officer to exercise Federal immigration law enforcement authority.

''(ii) STATE APPROPRIATIONS.—Funds received by a State under this paragraph shall be subject to appropriation by the legislature of the State, in accordance with the terms and conditions described in this paragraph.''.

On page 245, line 22, insert '', to be deposited in the Treasury in accordance with section 286(w)'' after ''Labor''.

On page 333, strike lines 9 through 12 and insert the following:

''(4) COLLECTION OF FINES AND FEES.—Of the fines and fees collected under this section—

''(A) 50 percent shall be deposited in the Treasury in accordance with section 286(w); and

''(B) 50 percent shall be deposited in the Treasury in accordance with section 286(x).

On page 341, line 17, insert '', to be deposited in the Treasury in accordance with section 286(w)'' before the period.

SA 3373. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

''(3) FEE.—

''(A) IN GENERAL.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking H–2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of $500, for the alien, and $100 for the spouse and each child accompanying such alien. Notwithstanding subsection (l), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

''(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

On page 245, strike lines 4 through 11 and insert the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

''(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

''(B) all supplemental application fees collected under subsections (c)(1)(F)(ii) and (g)(2) of section 218D.

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

''(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.''.

On page 279, line 3, strike ''and'' and all that follows through ''(5)'' and insert the following:

(5) provide a minimum level of health care, as determined by the Secretary of Health and Human Services, to nationals of the home country who are participating in a temporary worker program in the United States; and

(6)

On page 332, strike lines 19 through 24 and insert the following:

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of $500, for the alien, and $100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3374. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

''(3) FEE.—

''(A) IN GENERAL.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking H–2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of $500, for the alien, and $100 for the spouse and each child accompanying such alien. Notwithstanding subsection (l), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

''(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

On page 245, strike lines 4 through 11 and insert the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

''(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

''(B) all supplemental application fees collected under subsections (c)(1)(F)(ii) and (g)(2) of section 218D.

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

''(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.''.

(6)

On page 332, strike lines 19 through 24 and insert the following:

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of $500, for the alien, and $100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3375. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

On page 332, strike lines 19 through 24 and insert the following:

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking conditional nonimmigrant worker authorization and status under this section shall submit, in addition to the fee imposed under subparagraph (A), a health and education fee in the amount of $500, for the alien, and $100, for the spouse and each child accompanying such alien. Notwithstanding paragraph (4), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

SA 3376. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 231, strike lines 14 through 18 and insert the following:

''(3) FEE.—

''(A) IN GENERAL.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application.

''(B) HEALTH AND EDUCATION FEE.—Each alien seeking H–2C nonimmigrant status under this section shall submit, in addition to any fees otherwise authorized for processing an application under this section, a health and education fee in the amount of $500, for the alien, and $100 for the spouse and each child accompanying such alien. Notwithstanding subsection (l), the fee collected under this subparagraph shall be deposited in the State Impact Assistance Account established under section 286(x).

''(C) SAVINGS PROVISION.—Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

SA 3377. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 245, strike lines 4 through 11 and insert the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account—

''(A) all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B; and

''(B) all supplemental application fees collected under subsections (c)(1)(F)(ii) and (g)(2) of section 218D.

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account under paragraph (2)(B) shall remain available to the Secretary of Health and Human Services, in consultation with the Secretary of Education, to provide financial assistance to health care providers for health and educational services to aliens granted conditional nonimmigrant status under section 218A.

''(4) STATE ALLOCATIONS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Homeland Security, shall allocate funds among States in proportion to the number of aliens granted conditional nonimmigrant status residing in each State.''.

SA 3378. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. ENGLISH FLUENCY REQUIREMENTS FOR CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.

Section 214(g)(5)(A) (8 U.S.C. 1184(g)(5)(A)) is amended by striking ''entity;'' and inserting ''entity, and has demonstrated a high proficiency in the spoken English language;''.

SA 3379. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 279, line 3, strike ''and'' and all that follows through ''(5)'' and insert the following:

(5) provide a minimum level of health care, as determined by the Secretary of Health and Human Services, to nationals of the home country who are participating in a temporary worker program in the United States; and

(6)

SA 3380. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 276, between lines 15 and 16, insert the following:

''(A)(i) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application; and

''(ii)(I) is 65 years of age or older;

''(II) establishes that the alien's departure from the United States upon the expiration of conditional nonimmigrant status would result in significant hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

''(III) establishes that the alien's employer has designated the alien as a vital worker because the alien is vital to the operation of an existing and functioning business on the date of such application and—

''(aa) possesses the ability to operate a highly customized machine used in an inextricable part of the business operation; or

''(bb) possesses a very high degree of skill in manufacturing or agriculture, or creating products for a specific industry, and is recognized as such by well-established trade associations.

On page 276, line 5, insert after the word ''visas,'' (when allocations provided for under 203(b)(4))''

SA 3381. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 276, strike line and all that follows through page 277, line 21.

SA 3382. Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUYE, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

TITLE ___—IMPROVED PUBLIC TRANSPORTATION, RAIL, AND MARITIME SECURITY

Subtitle A—Public Transportation Security

SEC. ___101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Public Transportation Terrorism Prevention Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this subtitle is as follows:

Sec.—101. Short title; table of contents.
Sec.—102. Findings and purpose.
Sec.—103. Security assessments.
Sec.—104. Security assistance grants.
Sec.—105. Intelligence sharing.
Sec.—106. Research, development, and demonstration grants.
Sec.—107. Reporting requirements.
Sec.—108. Authorization of appropriations.
Sec.—109. Sunset provision.

SEC. ___102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) public transportation systems throughout the world have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 5,800 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential for the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $74,900,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $18,100,000,000 in fiscal years 2002 through 2005 to protect our Nation's aviation system and its 1,800,000 daily passengers;

(7) the Federal Government has allocated $250,000,000 in fiscal years 2003 through 2005 to protect public transportation systems in the United States;

(8) the Federal Government has invested $7.38 in aviation security improvements per passenger, but only $0.007 in public transportation security improvements per passenger;

(9) the Government Accountability Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and many transportation experts have reported an urgent need for significant investment in public transportation security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

SEC. ___103. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the

Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary of Homeland Security.

(2) REVIEW.—Not later than July 31, 2006, the Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The Secretary of Homeland Security shall use the security assessments received under paragraph (1) as the basis for allocating grant funds under section —104, unless the Secretary notifies the Committee on Banking, Housing, and Urban Affairs of the Senate that the Secretary has determined that an adjustment is necessary to respond to an urgent threat or other significant factors.

(4) SECURITY IMPROVEMENT PRIORITIES.—Not later than September 30, 2006, the Secretary of Homeland Security, after consultation with the management and employee representatives of each public transportation system for which a security assessment has been received under paragraph (1), shall establish security improvement priorities that will be used by public transportation agencies for any funding provided under section —104.

(5) UPDATES.—Not later than July 31, 2007, and annually thereafter, the Secretary of Homeland Security shall—

(A) update the security assessments referred to in this subsection; and

(B) conduct security assessments of all public transportation agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF SECURITY ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security; and

(2) to design a security improvement strategy that—

(A) minimizes terrorist threats to public transportation systems; and

(B) maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than July 31, 2006, the Secretary of Homeland Security shall conduct security assessments, appropriate to the size and nature of each system, to determine the specific needs of—

(1) local bus-only public transportation systems; and

(2) selected public transportation systems that receive funds under section 5311 of title 49, United States Code.

SEC. __104. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section —103(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section —103(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for public transportation employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section —103(a)(4); and

(F) other appropriate security improvements identified under section—103(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) PUBLIC TRANSPORTATION AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this section; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. __105. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Secretary of Homeland Security shall provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the ''ISAC'') established pursuant to Presidential Directive 63, to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge a fee to any public transportation agency for participating in the ISAC.

SEC. __106. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstrate, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used to—

(1) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) research imaging technologies;

(3) conduct product evaluations and testing; and

(4) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. __107. REPORTING REQUIREMENTS.

(a) SEMI-ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than March 31 and September 30 of each year, the Secretary of Homeland Security shall submit a report, containing the information described in paragraph (2), to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Appropriations of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of sections — 103 through 106;

(B) the amount of funds appropriated to carry out the provisions of each of sections — 103 through 106 that have not been expended or obligated; and

(C) the state of public transportation security in the United States.

(b) ANNUAL REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this subtitle.

(2) CONTENTS.—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

SEC. __108. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2007 to carry out the provisions of section —104(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section —104(b)—

(1) $534,000,000 for fiscal year 2007;

(2) $333,000,000 for fiscal year 2008; and

(3) $133,000,000 for fiscal year 2009.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section —105.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2007 to carry out the provisions of section —106, which shall remain available until expended.

SEC. __109. SUNSET PROVISION.

The authority to make grants under this subtitle shall expire on October 1, 2009.

Subtitle B—Improved Rail Security

SEC. __201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Rail Security Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this subtitle is as follows:

Sec.—201. Short title; table of contents.
Sec.—202. Rail transportation security risk assessment.
Sec.—203. Systemwide AMTRAK security upgrades.
Sec.—204. Fire and life-safety improvements.
Sec.—205. Freight and passenger rail security upgrades.
Sec.—206. Rail security research and development.
Sec.—207. Oversight and grant procedures.
Sec.—208. AMTRAK plan to assist families of passengers involved in rail passenger accidents.
Sec.—209. Northern border rail passenger report.
Sec.—210. Rail worker security training program.
Sec.—211. Whistleblower protection program.
Sec.—212. High hazard material security threat mitigation plans.
Sec.—213. Memorandum of agreement.
Sec.—214. Rail security enhancements.
Sec.—215. Public awareness.
Sec.—216. Railroad high hazard material tracking.
Sec.—217. Authorization of appropriations.

SEC. __202. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities describe in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

(B) identification and evaluation of critical assets and infrastructures;

(C) identification of vulnerabilities and risks to those assets and infrastructures;

(D) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad;

(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment; and

(F) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(3) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2007.

SEC. __203. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units;

(7) to expand emergency preparedness efforts; and

(8) for employee security training.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section —202, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) $63,500,000 for fiscal year 2007;

(2) $30,000,000 for fiscal year 2008; and

(3) $30,000,000 for fiscal year 2009.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. __204. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section —217(b) of this subtitle, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $190,000,000 for fiscal year 2007;

(B) $190,000,000 for fiscal year 2008; and

(C) $190,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $19,000,000 for fiscal year 2007;

(B) $19,000,000 for fiscal year 2008; and

(C) $19,000,000 for fiscal year 2009.

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $13,333,000 for fiscal year 2007;

(B) $13,333,000 for fiscal year 2008; and

(C) $13,333,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section —217(b) of this subtitle, there shall be made available to the Secretary of Transportation for fiscal year 2007 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. _205. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section—202, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section—202, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section—202, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section—203(b) of this subtitle.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section—202 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $45,000,000 to Amtrak; or

(2) in excess of $80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $100,000,000 for fiscal year 2007;

(2) $100,000,000 for fiscal year 2008; and

(3) $100,000,000 for fiscal year 2009.

Amounts made available pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

SEC. _206. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —205(g) of this subtitle; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address vulnerabilities and risks identified under section—202.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Homeland Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section—205(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $35,000,000 for fiscal year 2007;

(2) $35,000,000 for fiscal year 2008; and

(3) $35,000,000 for fiscal year 2009.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. __207. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security may use up to 0.5 percent of amounts made available for capital projects under the Rail Security Act of 2006 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts to audit and review the safety, procurement, management, and financial compliance of a recipient of amounts under this subtitle.

(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 90 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this subtitle, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

SEC. __208. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2006, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) FUNDING.—Out of funds appropriated pursuant to section —217(b) of the Rail Security Act of 2006, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. __209. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

SEC. __210. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Situational training exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. __211. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

''§ 20118. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

''20118. Whistleblower protection for rail security matters.''.

SEC. __212. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section —205(g) of this subtitle and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act;

(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and

(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term ''high-consequence target'' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life; and

(B) significantly damaged national security and defense capabilities; or

(C) national economic harm.

(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. __213. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Similar to the public transportation security annex between the two departments signed on September 8, 2005, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. __214. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Under''; and

(2) by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. __215. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall implement the plan developed under this section.

SEC. __216. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) IN GENERAL.—In conjunction with the research and development program established under section—206 and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section —205(g) of this subtitle) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terrestrial or satellite communications technology that provides—

(A) car position location and tracking capabilities;

(B) notification of rail car depressurization, breach, or unsafe temperature; and

(C) notification of hazardous material release.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2007, 2008, and 2009.

SEC. __217. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

''(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security, (Transportation Security Administration) for rail security—

''(1) $206,500,000 for fiscal year 2007;

''(2) $168,000,000 for fiscal year 2008; and

''(3) $168,000,000 for fiscal year 2009.''.

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this subtitle and sections 20118 and 24316 of title 49, United States Code, as added by this subtitle—

(1) $225,000,000 for fiscal year 2007;

(2) $223,000,000 for fiscal year 2008; and

(3) $223,000,000 for fiscal year 2009.

Subtitle C—Improved Maritime Security

SEC. __301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Maritime Security Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this subtitle is as follows:

Sec.—301. Short title; table of contents.
Sec.—302. Establishment of additional interagency operational centers for port security.
Sec.—303. Area maritime transportation security plan to include salvage response plan.
Sec.—304. Post-incident resumption of trade.
Sec.—305. Assistance for foreign ports.
Sec.—306. Improved data for targeted cargo searches.
Sec.—307. Technical requirements for nonintrusive inspection equipment.
Sec.—308. Random inspection of containers.
Sec.—309. Cargo security.
Sec.—310. Secure systems of international intermodal transportation.
Sec.—311. Port security user fee study.
Sec.—312. Deadline for transportation security cards.
Sec.—313. Port security grants.
Sec.—314. Customs-trade partnership against terrorism security validation program.
Sec.—315. Work stoppages and employee-employer disputes.
Sec.—316. Appeal of denial of waiver for transportation security card.
Sec.—317. Inspection of car ferries entering from Canada.

SEC. __302. ESTABLISHMENT OF ADDITIONAL INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish interagency operational centers for port security at all high priority ports.

(b) CHARACTERISTICS.—The interagency operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project interagency operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by representatives of the United States Customs and Border Protection, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security, and State and local law enforcement or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70116 of that title;

(E) the United States Customs and Border Protection's screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers.

SEC. __303. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) include a salvage response plan—

''(i) to identify salvage equipment capable of restoring operational trade capacity; and

''(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.''.

SEC. __304. POST-INCIDENT RESUMPTION OF TRADE.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after ''incident.'' the following: ''The plan shall provide, to the extent practicable, preference in the reestablishment of the flow of cargo through United States ports after a transportation security incident to—

''(i) vessels that have a vessel security plan approved under subsection (c);

''(ii) vessels manned by individuals who are described in section 70105(b)(2)(B) and who have undergone a background records check under section 70105(d) or who hold transportation security cards issued under section 70105; and

''(iii) vessels on which all the cargo has undergone screening and inspection under standards and procedures established under section 70116(b)(2) of this title.''.

SEC. __305. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 70109. International cooperation and coordination''; and

(2) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, the Secretary of Energy, and the Commandant of the United States Coast Guard, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

''(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of

American States and the Commandant of the United States Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

''(A) the strategic location of such ports between South America and United States;

''(B) the relative openness of such ports; and

''(C) the significant number of shipments of narcotics to the United States that are moved through such ports.

''(d) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary of State, in consultation with the Secretary acting through the Commissioner of Customs and Border Protection, shall enter into negotiations with foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, the International Labor Organization, and the International Standards Organization, as appropriate—

''(1) to promote standards for the security of containers and other cargo moving within the international supply chain;

''(2) to encourage compliance with minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, established under section —306 of the Maritime Security Act of 2006;

''(3) to implement the requirements of the container security initiative under section 70121; and

''(4) to implement standards and procedures established under section 70116.''.

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on the security of ports in the Caribbean Basin. The report—

(1) shall include—

(A) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

(B) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

(C) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

(2) may be submitted in both classified and redacted formats.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70901 and inserting the following:

''70901. International cooperation and coordination''.

SEC. __306. IMPROVED DATA FOR TARGETED CARGO SEARCHES.

(a) IN GENERAL.—In order to provide the best possible data for the automated targeting system developed and operated by United States Customs and Border Protection under section 70116(b)(1) of title 46, United States Code, that identifies high-risk cargo for inspection before it is loaded in a foreign port for shipment to the United States, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, shall require importers shipping goods to the United States via cargo container to supply entry data not later than 24 hours before loading a container under the advance notification requirements under section 484(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)).

(b) DEADLINE.—The requirement imposed under subsection (a) shall apply to goods entered after July 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary of Homeland Security to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection—

(A) $30,700,000 for fiscal year 2007;

(B) $33,200,000 for fiscal year 2008; and

(C) $35,700,000 for fiscal year 2009.

(2) The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

SEC. __307. TECHNICAL REQUIREMENTS FOR NON-INTRUSIVE INSPECTION EQUIPMENT.

Within 2 years after the date of enactment of this Act, the Commissioner of Customs and Border Protection, in consultation with the National Institute of Science and Technology, shall initiate a rulemaking to establish minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, that help ensure that all equipment used can detect risks and threats as determined appropriate by the Secretary, while considering the need not to endorse specific companies or to create sovereignty conflicts with participating countries.

SEC. __308. RANDOM INSPECTION OF CONTAINERS.

Within 1 year after the date of enactment of this Act, the Commissioner of Customs and Border Protection shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling standards for random physical inspection of shipping containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Commissioner. Nothing in this section shall be construed to mean that implementation of the random sampling plan would preclude the additional physical inspection of shipping containers not inspected pursuant to the plan.

SEC. __309. CARGO SECURITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to withholding of clearance), as added by section 802(a)(2) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122; and

(4) by inserting after section 70120, as redesignated by paragraph (2), the following:

''§ 70121. Container security initiative

''(a) IN GENERAL.—Pursuant to the standards established under subsection (b)(1) of section 70116—

''(1) the Secretary, through the Commissioner of Customs and Border Protection, shall issue regulations to—

''(A) evaluate and screen cargo documents prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

''(B) inspect high-risk cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means; and

''(2) the Commissioner of Customs and Border Protection shall execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner.

''(b) EXTENSION OF CONTAINER SECURITY INITIATIVE TO OTHER PORTS.—The Secretary, through the Commissioner of Customs and Border Protection, may designate foreign seaports under this section if, with respect to any such seaport, the Secretary determines that—

''(1) the seaport—

''(A) presents a significant level of risk;

''(B) is a significant port or origin or transshipment, in terms of volume or value, for cargo being imported to the United States; and

''(C) is potentially capable of validating a secure system of transportation pursuant to section 70116; and

''(2) the Department of State and representatives of the country with jurisdiction over the port have completed negotiations to ensure compliance with the requirements of the container security initiative.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $142,000,000 for fiscal year 2007;

''(2) $144,000,000 for fiscal year 2008; and

''(3) $146,000,000 for fiscal year 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

''70117. In rem liability for civil penalties and certain costs

''70118. Firearms, arrests, and seizure of property

''70119. Withholding of clearance

''70120. Enforcement by State and local officers

''70121. Container security initiative

''70122. Civil penalty''.

(2) Section 70117(a) of title 46, United States Code, is amended by striking ''section 70120'' and inserting ''section 70122''.

(3) Section 70119(a) of such title, as redesignated by subsection (a)(1) of this section, is amended—

(A) by striking ''under section 70119,'' and inserting ''under section 70122,''; and

(B) by striking ''under section 70120,'' and inserting ''under that section,''.

(4) Section 111 of the Maritime Transportation Security Act of 2002 is repealed.

SEC. __310. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION.

Section 70116 of title 46, United States Code, is amended—

(1) by striking ''transportation.'' in subsection (a) and inserting ''transportation—

''(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded into a cargo container for international shipment until they reach their ultimate destination; and

''(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.''; and

(2) by striking subsection (b) and inserting the following:

''(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Secretary, acting through the Commissioner of Customs and Border Protection, shall—

''(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

''(2) establish standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

''(3) establish standards and procedures for securing cargo and monitoring that security while in transit;

''(4) develop performance standards to enhance the physical security of shipping containers, including performance standards for seals and locks;

''(5) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

''(6) incorporate any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

''(c) BENEFITS FROM PARTICIPATION.—The Commissioner of Customs and Border Protection may provide expedited clearance of cargo to an entity that—

''(1) meets or exceeds the standards established under subsection (b); and

''(2) certifies the security of its supply chain not less often than once every 2 years to the Secretary.''.

SEC. _311. PORT SECURITY USER FEE STUDY.

The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. Within 1 year after date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that—

(1) contains the Secretary's findings, conclusions, and recommendations (including legislative recommendations if appropriate); and

(2) includes an assessment of the annual amount of customs fees and duties collected through oceanborne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security.

SEC. _312. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2007.

SEC. _313. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking ''for making a fair and equitable allocation of funds'' and inserting ''based on risk and vulnerability''.

(b) ELIGIBLE COSTS.—Section 70107(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(c) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

''(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.''.

SEC. _314. CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM SECURITY VALIDATION PROGRAM.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section —309 of this subtitle, is further amended—

(1) by redesignating section 70122 (as redesignated by section —309(a)(3) of this subtitle) as section 70123; and

(2) by inserting after section 70121 the following:

''§ 70122. Customs-Trade Partnership Against Terrorism validation program.

''(a) VALIDATION; RECORDS MANAGEMENT.—The Secretary of Homeland Security, through the Commissioner of Customs and Border Protection, shall issue regulations—

''(1) to strengthen the validation process to verify that security programs of members of the Customs-Trade Partnership Against Terrorism have been implemented and that the program benefits should continue by providing appropriate guidance to specialists conducting such validations, including establishing what level of review is adequate to determine whether member security practices are reliable, accurate, and effective; and

''(2) to implement a records management system that documents key decisions and significant operational events accurately and in a timely manner, including a reliable system for—

''(A) documenting and maintaining records of all decisions in the application through validation processes, including documentation of the objectives, scope, methodologies, and limitations of validations; and

''(B) tracking member status.

''(b) HUMAN CAPITAL PLAN.—Within 6 months after the date of enactment of the Maritime Security Act of 2006, the Secretary shall complete a human capital plan, that clearly describes how the Customs-Trade Partnership Against Terrorism program will recruit, train, and retain sufficient staff to conduct the work of the program successfully, including reviewing security profiles, vetting, and conducting validations to mitigate program risk.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out section 70122 of title 49, United States Code, not to exceed—

(1) $60,000,000 for fiscal year 2007;

(2) $65,000,000 for fiscal year 2008; and

(3) $72,000,000 for fiscal year 2009.

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, as amended by section—309(b) of this subtitle, is further amended by striking the item relating to section 70122 and inserting the following:

''70122. Customs-Trade Partnership Against Terrorism validation program

''70123. Civil penalty''.

(2) Section 70117(a) and 70119(a) of title 46, United States Code, as amended by section —309(b)(2) and (3), respectively, of this Act, are each amended by striking ''section 70122,'' and inserting ''section 70123,''.

SEC. _315. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after ''area.'' the following: ''In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action resulting from an employee-employer dispute.''.

SEC. _316. APPEAL OF DENIAL OF WAIVER FOR TRANSPORTATION SECURITY CARD.

Section 70105(c)(3) of title 46, United States Code, is amended by inserting ''or a waiver under paragraph (2)'' after ''card''.

SEC. _317. INSPECTION OF CAR FERRIES ENTERING FROM CANADA.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, in coordination with the Secretary of State, and their Canadian counterparts, shall develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States port.

SA 3383. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC . . JUDICIAL REVIEW OF VISA REVOCATION.

(a) IN GENERAL.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by amending the last sentence to read as follows: 'Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.'.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to visa revocations effected before, on, or after such date.

SA 3384. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, Mr. HARKIN, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—

Whereas there is a strong correlation between economic freedom and economic prosperity;

Whereas trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom;

Whereas poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico;

Whereas strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration;

Whereas advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity;

(b) IN GENERAL.—The Secretary of State may award a grant to a land grant university in the United States to establish one national program for a broad-based university Mexican rural poverty program.

(c) FUNCTIONS.—The national program shall:

(1) Pair a U.S. land grant university with the lead Mexican public university in each of

Mexico's 31 states to provide state-level coordination of rural poverty programs.

(2) Establish and coordinate relationships and programmatic ties between U.S. universities and Mexican universities to address the issue of Mexican rural poverty.

(3) Establish and coordinate ties with key leaders in Mexico and the United States to explore how rural poverty drives illegal immigration of Mexicans into the United States; and

(4) Address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

1. IN GENERAL.—Grants awarded under this section shall be used—

(A) for education, training, technical assistance, and all related costs (including personnel and equipment) incurred by the grantee in implementing a program under this Act;

(B) to establish a program administrative structure in the United States.

(C) No funds can be used for the activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF FUNDS.—

1. Such funds as deemed necessary by the Secretary shall by used for the execution of this program.

SA 3385. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

SA 3386. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, beginning on line 9, strike all through page 294, line 4, and insert the following:

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in

Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US–VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US–VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US–VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''entry and exit documents'' and inserting ''travel and entry documents and evidence of status'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge

orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are

aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

"SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

"CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.
''1555. Exception for refugees and asylees.

"§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

"§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

"§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

"§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein

contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document

with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—'; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular

circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this

subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for

employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all

employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this

section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or

take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—REQUIREMENTS FOR PARTICIPATING COUNTRIES

SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) HOUSING.—Participating countries shall agree to evaluate means to provide housing incentives in the alien's home country for returning workers.

TITLE V—NONIMMIGRANT TEMPORARY WORKER PROGRAM

SEC. 501. NONIMMIGRANT TEMPORARY WORKER CATEGORY.

(a) NEW TEMPORARY WORKER CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

''(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or''.

(b) REPEAL OF H–2B CATEGORY.—Section 101(a)(15)(H)(ii) is amended by striking '', or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession''.

(c) TECHNICAL AMENDMENTS.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking ''or'' at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and ''or''.

SEC. 502. TEMPORARY WORKER PROGRAM.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

''SEC. 218A. TEMPORARY WORKER PROGRAM.

''(a) IN GENERAL.—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15)).

''(b) REQUIREMENTS FOR ADMISSION.—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).

''(2) EVIDENCE OF EMPLOYMENT.—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security may require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

''(i) to administrative or judicial review or appeal of an immigration officer's determination as to the alien's admissibility; or

''(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as a nonimmigrant under section 101(a)(15)(W)—

''(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

''(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

''(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a $500 fee upon approval of the alien's visa application.

''(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS AND INTERVIEW.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An alien admitted under section 101(a)(15)(W) is ineligible to change status under section 248.

''(f) DURATION.—

''(1) GENERAL.—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien's home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

''(2) SEASONAL WORKERS.—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).

''(3) COMMUTERS.—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).

''(4) DEFERRED MANDATORY DEPARTURE.—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

''(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

''(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

''(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

''(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.

''(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

''(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

''(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

''(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

''(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien's authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.

''(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

''(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the 'Task Force').

''(2) PURPOSES.—The purposes of the Task Force are—

''(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

''(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

''(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

''(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

''(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

''(C) 2 shall be appointed by the majority leader of the Senate;

''(D) 2 shall be appointed by the minority leader of the Senate;

''(E) 2 shall be appointed by the Speaker of the House of Representatives; and

''(F) 2 shall be appointed by the minority leader of the House of Representatives.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—Members of the Task Force shall be—

''(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

''(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

''(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

''(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

''(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

''(7) MEETINGS.—

''(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

''(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

''(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

''(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

''(A) findings with respect to the duties of the Task Force;

''(B) recommendations for imposing a numerical limit.

''(10) DETERMINATION.—Not later than 6 months after the submission of the report, the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

''(l) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS OF W NONIMMIGRANTS.—

''(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

''(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

''(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of $100.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(m) TRAVEL OUTSIDE THE UNITED STATES.—

''(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

''(A) may travel outside of the United States; and

''(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

''(n) EMPLOYMENT.—

''(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

''(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien's departure from the United States.

''(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

''(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(q) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) PROHIBITION ON CHANGE IN NONIMMIGRANT CLASSIFICATION.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking ''or (S)'' and inserting ''(S), or (W)''.

SEC. 503. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this title.

TITLE IX—CIRCULAR MIGRATION

SEC. 901. INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

''(2) For purposes of this subsection—

''(A) the term 'temporary worker taxes' means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and

''(B) the term 'temporary worker' means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.''.

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the ''**PART A—SOCIAL SECURITY**''; and

(2) by adding at the end the following:

''PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS

''DEFINITIONS

''SEC. 251. For purposes of this part:

''(1) COVERED EMPLOYER.—The term 'covered employer' means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(3) TEMPORARY WORKER.—The term 'temporary worker' an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

''(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term 'temporary worker investment account' means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

''(5) TEMPORARY WORKER INVESTMENT FUND.—The term 'Temporary Worker Investment Fund' means the fund established under section 253.

''TEMPORARY WORKER INVESTMENT ACCOUNTS

''SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W–4 form (or any successor form) identifying such individual as a temporary worker.

''(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

''(c) TEMPORARY WORKER'S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

''TEMPORARY WORKER INVESTMENT FUND

''SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the 'Temporary Worker Investment Fund' to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

''(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker's investment account transfers shall be shown on such worker's W–2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

''(c) INVESTMENT EARNINGS REPORT.—

''(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

''(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

''(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

''(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

''(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker's account.

''(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

''TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

''SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker's nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker's home country.

''(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before the date determined under subsection (a), the balance in the worker's account shall be distributed to the worker's estate under rules established by the Secretary.''.

(c) TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W–2S.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking ''and'' at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker's temporary worker investment account under section 201(o) of such Act.''.

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting ''and paid as tax under section 3111'' after ''section 3101''; and

(B) in subsection (c), by inserting ''and paid as tax under section 3111'' after ''section 3101''.

TITLE X—BACKLOG REDUCTION

SEC. 1001. EMPLOYMENT BASED IMMIGRANTS.

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 140,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those years; and

''(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

''(4) the number of visas previously made available under section 203(e).''.

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the ''Task Force'').

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 1002. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 1003. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''10 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''10 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''4 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 36 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States''; and

(8) by striking paragraph (6).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1153 note) is repealed.

SA 3387. Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192, submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 55, strike lines 5 through 7 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''; and

(B) by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.''; and

(2) in subsection (c)(2)(A), by striking ''a fundamental change in circumstances'' and inserting ''fundamental and lasting changes that have stabilized the country of the alien's nationality''.

SA 3388. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

SA 3389. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

SA 3390. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, line 17, strike ''and''.

On page 351, line 21, strike the period at the end and insert ''; and''.

On page 351, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 363, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 366, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SA 3391. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 353, line 2, strike ''or''.

On page 353, strike line 14 and insert the following:

or harm to property in excess of $500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

SA 3392. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 360, strike line 18 and all that follows through page 361, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

SA 3393. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 381, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3394. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

On page 351, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

On page 351, line 17, strike ''and''.

On page 351, line 21, strike the period at the end and insert ''; and''.

On page 351, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 353, line 2, strike ''or''.

On page 353, strike line 14 and insert the following:

or harm to property in excess of $500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

Beginning on page 360, strike line 18 and all that follows through page 361, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

On page 363, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 366, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

On page 381, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

SA 3395. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RADIATION SOURCE PROTECTION.

(a) TRACKING SYSTEM.—Section 170H of the Atomic Energy Act of 1954 (42 U.S.C. 2210h) is amended—

(1) in subsection c.—

(A) in paragraph (1)(B)—

(i) by inserting ''and the Secretary of Homeland Security'' after ''Secretary of Transportation'' the first place it appears; and

(ii) by inserting ''or the Secretary of Homeland Security'' after ''Secretary of Transportation'' the second place it appears; and

(B) in paragraph (2)(A), by inserting ''and each license holder'' after ''unique identifier''; and

(2) by adding at the end the following:

''h. LICENSE VERIFICATION FOR EXPORTS AND IMPORTS.—The Commission shall—

''(1) assist the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security in verifying the authenticity of any documentation or authorization issued by the Commission associated with the export or import of a radiation source regulated under this section, including allowing the Department of Homeland Security access to the tracking system established under subsection c.;

''(2) require any individual transporting radiation sources that are exported from or imported into the United States to possess the applicable and required documentation issued by the Commission; and

''(3) issue regulations to ensure that the licenses, permits, certificates, and other documents of the Commission needed to export or import a radiation source includes tamperproof and other security features that prevent counterfeiting.''.

(b) CUSTOMS REVENUE FUNCTION.—Section 415 of the Homeland Security Act of 2002 (6 U.S.C. 215) is amended by adding at the end the following:

''(9) Verifying the authorizations issued by the Nuclear Regulatory Commission to possess and transport radiation sources when individuals pass through United States ports of entry.''.

SA 3396. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. REQUIREMENTS FOR NATURALIZATION.

(a) ENGLISH LANGUAGE REQUIREMENTS.—Section 312(a)(1) (8 U.S.C. 1423(a)(1)) is amended to read as follows:

''(1) an understanding of the English language on an 6th grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and''.

(b) REQUIREMENT FOR HISTORY AND GOVERNMENT TESTING.—Section 312(a)(2) (8 U.S.C. 1423(a)(2)) is amended by striking the period at the end and inserting '', as demonstrated by receiving a passing score on a standardized test administered by the Secretary of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.''.

SA 3397. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection 644(b)(3) and insert:

(3) ENGLISH AND HISTORY AND GOVERNMENT REQUIREMENTS.—Section 312(a) is amended to read as follows:

''(a) No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

''(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and

''(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States, as demonstrated by receiving a passing score on a standardized test administered by the Secretary of the Department of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.''.

SA 3398. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 161, line 16 and 17 strike ''of the criminal provisions''

SA 3399. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER for (himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 18, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''standards''.

On page 20, line 21, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''standards''.

On page 21, lines 20 and 21, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''documents''.

On page 23, line 12, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''biometrics''.

On page 31, line 25, insert ''10'' after ''all''.

On page 37, line 2, insert ''(including, at a minimum, all 10 fingerprints from the individual)'' after ''biometric identifier''.

On page 38, lines 7 and 8, strike ''is authorized to'' and insert ''shall''.

On page 38, line 9, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''data''.

On page 38, line 16, strike ''are authorized to'' and insert ''shall''.

On page 38, line 17, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''data''.

On page 39, line 4, strike ''is authorized to'' and insert ''shall''.

On page 39, line 5, insert ''(including, at a minimum, 10 fingerprints from each individual)'' after ''data''.

On page 237, line 24, strike ''allow for biometric authentication'' and insert ''provide for biometric authentication through the matching of the fingerprints of an individual, all 10 of which shall be incorporated into the machine-readable documentary evidence''.

On page 312, strike lines 19 and 20 and insert the following:

(i) IN GENERAL.—Upon entry to the

On page 312, line 23, strike ''such'' and insert ''all 10''.

On page 313, line 8, insert '', provided that all 10 of the fingerprints of the alien are submitted'' before the period at the end.

On page 331, line 13, insert ''all 10'' after ''submits''.

On page 354, line 11, insert ''all 10'' after ''including''.

SA 3400. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, after line 16, add new Sections 3 (3); 3(4); and 3(5) that reads:

(3) BIOMETRIC.—The term ''Biometric'' includes the collection of, at a minimum, all 10 fingerprints from an individual, unless the individual is missing one or more of their digits, in which case the term ''biometric'' shall include the collection of, at a minimum, all fingerprints available.

(4) BIOMETRIC IDENTIFIER.—The term ''biometric identifier'' includes identifying an individual through the use of, at a minimum, fingerprint biometrics. The term does not include identification through a facial recognition biometric alone.

(5) BIOMETRIC AUTHENTICATION.—The term ''biometric authentication'' includes, at a minimum, authentication through the use of a fingerprint biometric.

SA 3401. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.

No alien granted conditional nonimmigrant status or status as an H2C nonimmigrant status under this Act or an

amendment made by this Act shall be granted any public benefit as a result of the changed status of the alien, including any cash or non-cash assistance, postsecondary educational assistance, housing assistance, daycare assistance, food stamps, Medicaid, or other individual public assistance, whether or not receipt of the public assistance would be sufficient for the person to be considered a public charge under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)).

SA 3402. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through 14, and insert the following:

''(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).''

SA 3403. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 233, strike lines 16 and 17 and insert the following:

(A) paragraphs (5) and (7) of section 212(a) may be waived for

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SA 3404. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 337, strike line 20 and all that follows through 338, line 8, and insert the following:

(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

SA 3405. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 338, strike lines 19 through 22, and insert the following:

(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than $1,000.

SA 3406. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 337, strike line 19 and all that follows through 338, line 22, and insert the following:

(i) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than $1,000.

SA 3407. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V of the amendment, insert the following:

SEC. 2. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

''(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

''(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

''(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed or the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.''.

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; and

(B) 1 year after the date on which final regulations implementing this section are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart vohmtarily, and who files an application under paragraph (I), or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

SEC 3. INADMISSIBILITY DETERMINATION.

Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting ''(6)(C)(i),'' after ''(6)(A).''

SA 3408. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 21 and 22, insert the following:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SA 3409. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9.

SA 3410. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 170, strike line 3 and all that follows through page 171, line 17, and insert the following:

SEC. 233. DETENTION OF ILLEGAL ALIENS.

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''8,000'' and inserting ''20,000''.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien's reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien's detention facility without providing that alien and the alien's attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

SA 3411. Mr. DORGAN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

In title IV of the amendment, strike subtitle A.

SA 3412. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ANNUAL REPORT ON THE NORTH AMERICAN DEVELOPMENT BANK.

Section 2 of Public Law 108–215 (22 U.S.C. 290m–6) is amended—

(1) in paragraph (1), by inserting after ''The number'' the following: ''of applications received by, pending with, and awaiting final approval from the Board of the North American Development Bank and the number''; and

(2) by adding at the end the following:

''(8) Recommendations on how to improve the operations of the North American Development Bank.

''(9) An update on the implementation of this Act, including the business process review undertaken by the North American Development Bank.

''(10) A description of the activities and accomplishments of the North American Development Bank during the previous year, including a brief summary of meetings and actions taken by the Board of the North American Development Bank.''.

SA 3413. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike line 9 and all that follows through page 221, line 18 and insert the following:

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity

training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants

across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in

the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or

be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be

fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.
''1555. Exception for refugees and asylees.

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;
(B) appearance bonds; and
(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of

property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines

that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer

and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

On page 332, line 9, strike ''6 years'' and insert ''5 years''.

On page 332, line 15, strike ''The'' and all that follows through line 18, and insert the following:

''(C) ADMISSION OF NONIMMIGRANTS.—An alien granted conditional nonimmigrant work authorization and status under this section who departs the United States during the 6-year period described in subparagraph (A) may seek admission as a nonimmigrant under section 101(a)(15) without regard to the numerical limitations under section 214.

On page 340, strike line 10 and all that follows through the undesignated matter before line 19 on page 345, and insert the following:

SEC. 602. CANCELLATION OF DEPARTURE AND ADJUSTMENT FOR HUMANITARIAN CASES.

(a) IN GENERAL.—Section 240A (8 U.S.C. 1229b) is amended by adding at the end the following:

''(f) CANCELLATION OF DEPARTURE FOR HUMANITARIAN REASONS.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, may adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

''(A) is a conditional nonimmigrant who has not violated any material term or condition of such status;

''(B) makes an application for such adjustment of status;

''(C) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

''(D) establishes that the alien's departure from the United States upon the expiration of conditional nonimmigrant status would result in significant hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence;

''(E) establishes that the alien meets the English language, history, and principles and form of government requirements under section 312; and

''(F) establishes that the alien has paid all Federal income taxes owed for employment during the required period of continuous residence.

''(2) APPLICATION FEE.—An alien seeking humanitarian relief shall submit to the Secretary of Homeland Security, in addition to any other fees authorized by law, a supplemental application fee of $1000, which shall be deposited in the Temporary Worker Program Account established under section 286(y).''.

(b) CREATION OF BORDER SECURITY AND TEMPORARY WORKER ACCOUNT.—Section 286 (8 U.S.C. 1356), as amended by sections 302 and 403(b), is further amended by adding at the end the following:

''(y) BORDER SECURITY AND TEMPORARY WORKER ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Border Security and Temporary Worker Account'.

''(2) DEPOSITS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the Border Security and Temporary Worker Account the supplemental application fee collected under section 240A(f).

''(3) USE OF FUNDS.—Of the amounts deposited into the Border Security and Temporary Worker Account—

''(A) 75 percent shall be used to carry out titles I, II, and III of this Act, and the amendments made by such titles; and

''(B) 25 percent shall be used to carry out title VI of this Act, and the amendments made by such title.''.

SA 3414. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 171, between lines 17 and 18, insert the following:

SEC. 234. DETENTION STANDARDS.

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SA 3415. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. DIASPORA RESEARCH NETWORK.

(a) IN GENERAL.—There is established a grant program to be known as ''Diaspora Research Network''.

(b) PURPOSE.—The purpose of the Diaspora Research Network is to—

(1) provide policy makers with systematic, comparative, and reliable data and expertise on diasporas;

(2) support efforts within diaspora communities to address self-identified concerns; and

(3) provide guidelines on how best to incorporate and account for diasporas in development, humanitarian assistance, and political strategies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Diaspora Research Network, $30,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

SA 3416. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 156, strike lines 10 through 12 and insert the following:

(a) IN GENERAL.—Any alien with nonimmigrant status under subparagraph (H)(i)(b) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), who seeks to practice medicine in the United States other than during participation in an accredited medical residency program, shall, during the 3-year period from the date of commencement of such status (or, in the case of an alien who initially practices medicine as part of such medical residency program, from the date of completion of such program), practice medicine in a facility that treats patients who reside in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a Medically Underserved Area (as designated by the Secretary of Health and Human Services).

(b) EXEMPTION FROM NUMERICAL LIMITATION.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) practices medicine in a facility that treats patients who reside in a Health Professional Shortage Area or a Medically Underserved Area, in accordance with section 226(a) of the Comprehensive Immigration Reform Act of 2006.''.

(c) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SA 3417. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PEACE GARDEN PASS.

(a) AUTHORIZATION.—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ''Peace Garden Pass'') to allow citizens and nationals of the United States to travel to the International Peace Garden.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued to, and shall authorize the admittance of, any person who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) IDENTIFICATION.—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(e) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 3418. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) SHORT TITLE.—This section may be cited as the ''Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006''.

(b) PURPOSE.—The purpose of this section is to establish a grant program within the Bureau of Citizenship and Immigration Services that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for the conditional nonimmigrant worker program established under this Act by providing them with the services described in subsection (d)(2).

(c) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a nonprofit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or persons applying for such statuses.

(2) IEACA GRANT.—The term ''IEACA grant'' means an Initial Entry, Adjustment, and Citizenship Assistance Grant authorized under subsection (d).

(d) ESTABLISHMENT OF INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary, working through the Director of the Bureau of Citizenship and Immigration Services, may award IEACA grants to community-based organizations.

(2) USE OF FUNDS.—Grants awarded under this section may be used for the design and implementation of programs to provide the following services:

(A) INITIAL APPLICATION.—Assistance and instruction, including legal assistance, to aliens making initial application for treatment under the program established by section 218D of the Immigration and Nationality Act, as added by section 601. Such assistance may include assisting applicants in—

(i) screening to assess prospective applicants' potential eligibility or lack of eligibility;

(ii) filling out applications;

(iii) gathering proof of identification, employment, residence, and tax payment;

(iv) gathering proof of relationships of eligible family members;

(v) applying for any waivers for which applicants and qualifying family members may be eligible; and

(vi) any other assistance that the Secretary or grantee considers useful to aliens who are interested in filing applications for treatment under such section 218D.

(B) ADJUSTMENT OF STATUS.—Assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 245 or 245B of the Immigration and Nationality Act.

(C) CITIZENSHIP.—Assistance and instruction to applicants on—

(i) the rights and responsibilities of United States Citizenship;

(ii) English as a second language;

(iii) civics; or

(iv) applying for United States citizenship.

(3) DURATION AND RENEWAL.—

(A) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 3 years.

(B) RENEWAL.—The Secretary may renew any grant awarded under this section in 1-year increments.

(4) APPLICATION FOR GRANTS.—Each entity desiring an IEACA grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(5) ELIGIBLE ORGANIZATIONS.—A community-based organization applying for a grant under this section to provide services described in subparagraph (A), (B), or (C)(iv) of paragraph (2) may not receive such a grant unless the organization is—

(A) recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) otherwise directed by an attorney.

(6) SELECTION OF GRANTEES.—Grants awarded under this section shall be awarded on a competitive basis.

(7) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Secretary shall approve applications under this section in a manner that ensures, to greatest extent practicable, that—

(A) not less than 50 percent of the funding for grants under this section are awarded to programs located in the 10 States with the highest percentage of foreign-born residents; and

(B) not less than 20 percent of the funding for grants under this section are awarded to programs located in States that are not described in subparagraph (A).

(8) ETHNIC DIVERSITY.—The Secretary shall ensure that community-based organizations receiving grants under this section provide services to an ethnically diverse population, to the greatest extent possible.

(e) LIAISON BETWEEN USCIS AND GRANTEES.—The Secretary shall establish a liaison between the Bureau of Citizenship and Immigration Services and the community of providers of services under this section to assure quality control, efficiency, and greater client willingness to come forward.

(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of

this Act, and each subsequent July 1, the Secretary shall submit a report to Congress that includes information regarding—

(1) the status of the implementation of this section;

(2) the grants issued pursuant to this section; and

(3) the results of those grants.

(g) SOURCE OF GRANT FUNDS.—

(1) APPLICATION FEES.—The Secretary may use funds made available under sections 218A(l)(2) and 218D(f)(4)(B) of the Immigration and Nationality Act, as added by this Act, to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) AMOUNTS AUTHORIZED.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such additional sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(h) DISTRIBUTION OF FEES AND FINES.—

(1) H–2C VISA FEES.—Notwithstanding section 218A(l) of the Immigration and Nationality Act, as added by section 403, 2 percent of the fees collected under section 218A of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

(2) CONDITIONAL NONIMMIGRANT VISA FEES AND FINES.—Notwithstanding section 218D(f)(4) of the Immigration and Nationality Act, as added by section 601, 2 percent of the fees and fines collected under section 218D of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

SA 3419. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Sec. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.

Notwithstanding any other provision of law, any fee or penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

SA 3420. Mr. SESSIONS proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

In the bill, strike all after the word ''SECTION'' and insert the following:

1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Securing America's Borders Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reference to the Immigration and Nationality Act.
Sec. 3. Definitions.
TITLE I—BORDER ENFORCEMENT
Subtitle A—Assets for Controlling United States Borders
Sec. 101. Enforcement personnel.
Sec. 102. Technological assets.
Sec. 103. Infrastructure.
Sec. 104. Border patrol checkpoints.
Sec. 105. Ports of entry.
Sec. 106. Construction of strategic border fencing and vehicle barriers. .....
Subtitle B—Border Security Plans, Strategies, and Reports
Sec. 111. Surveillance plan.
Sec. 112. National Strategy for Border Security.
Sec. 113. Reports on improving the exchange of information on North American security.
Sec. 114. Improving the security of Mexico's southern border.
Subtitle C—Other Border Security Initiatives
Sec. 121. Biometric data enhancements.
Sec. 122. Secure communication.
Sec. 123. Border patrol training capacity review.
Sec. 124. US-VISIT System.
Sec. 125. Document fraud detection.
Sec. 126. Improved document integrity.
Sec. 127. Cancellation of visas.
Sec. 128. Biometric entry-exit system.
Sec. 129. Border study.
Sec. 130. Secure Border Initiative financial accountability.
TITLE II—INTERIOR ENFORCEMENT
Sec. 201. Removal and denial of benefits to terrorist aliens.
Sec. 202. Detention and removal of aliens ordered removed.
Sec. 203. Aggravated felony.
Sec. 204. Terrorist bars.
Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
Sec. 206. Illegal entry or unlawful presence of an alien.
Sec. 207. Illegal reentry.
Sec. 208. Reform of passport, visa, and immigration fraud offenses.
Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
Sec. 210. Incarceration of criminal aliens.
Sec. 211. Encouraging aliens to depart voluntarily.
Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
Sec. 215. Diplomatic security service.
Sec. 216. Field agent allocation and background checks.
Sec. 217. Denial of benefits to terrorists and criminals.
Sec. 218. State criminal alien assistance program.
Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
Sec. 220. State and local law enforcement of Federal immigration laws.
Sec. 221. Reducing illegal immigration and alien smuggling on tribal lands.
Sec. 222. Alternatives to detention.
Sec. 223. Conforming amendment.
Sec. 224. Reporting requirements.
Sec. 225. Mandatory detention for aliens apprehended at or between ports of entry.
Sec. 226. Removal of drunk drivers.
Sec. 227. Expedited removal.
Sec. 228. Protecting immigrants from convicted sex offenders
Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
Sec. 230. Listing of immigration violators in the National Crime Information Center database.
Sec. 231. Laundering of monetary instruments.
Sec. 232. Severability.
TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS
Sec. 301. Unlawful employment of aliens.
Sec. 302. Employer Compliance Fund.
Sec. 303. Additional worksite enforcement and fraud detection agents.
Sec. 304. Clarification of ineligibility for misrepresentation.
TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS AND ALIENS WITH ADVANCED DEGREES
Sec. 401. Elimination of existing backlogs.
Sec. 402. Country limits.
Sec. 403. Allocation of immigrant visas.
Sec. 404. Relief for minor children.
Sec. 405. Student visas.
Sec. 406. Visas for individuals with advanced degrees.
Sec. 407. Medical services in underserved areas.
TITLE V—IMMIGRATION LITIGATION REDUCTION
Sec. 501. Consolidation of immigration appeals.
Sec. 502. Additional immigration personnel.
Sec. 503. Board of immigration appeals removal order authority.
Sec. 504. Judicial review of visa revocation.
Sec. 505. Reinstatement of removal orders.
Sec. 506. Withholding of removal.
Sec. 507. Certificate of reviewability.
Sec. 508. Discretionary decisions on motions to reopen or reconsider.
Sec. 509. Prohibition of attorney fee awards for review of final orders of removal.
Sec. 510. Board of Immigration Appeals.
TITLE VI—MISCELLANEOUS
Sec. 601. Technical and conforming amendments.

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 250

the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(3) BORDER PATROL AGENT.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended—

(A) by striking ''2010'' both places it appears and inserting ''2011''; and

(B) by striking ''2,000'' and inserting ''2,400''.

(4) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INSPECTORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (2) of subsection (a).

(3) BORDER PATROL AGENTS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), as amended by subsection (a)(3).

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 25 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism,

narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than September 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US–VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US–VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance; and

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and

inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to—

(A) any aliens in a removal, deportation, or exclusion proceeding pending on or after the date of the enactment of this Act; and

(B) any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with subparagraphs (C) and (E).

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies or such crimes, for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (including any provision providing an effective date), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(3) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(4) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(5) by striking the undesignated matter following subparagraph (U).

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law. Except in a proceeding under section 340, and notwithstanding any other provision of law, no court shall have jurisdiction to determine, or to review a determination of the Secretary regarding, whether, for purposes of an application for naturalization, an alien—

''(1) is a person of good moral character;

''(2) understands and is attached to the principles of the Constitution of the United States; or

''(3) is well disposed to the good order and happiness of the United States.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such district court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act;

(2) shall apply to any act that occurred before, on, or after such date of enactment; and

(3) shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed after, such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a))''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside or remain in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in or remain in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered, provided that such assistance is rendered without compensation or the expectation of compensation.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF AN ALIEN.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY OR UNLAWFUL PRESENCE OF AN ALIEN.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer;

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact; or

''(D) is otherwise present in the United States, knowing that such presence violates the terms and conditions of any admission, parole, immigration status, or authorized stay granted the alien under this Act.

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry or unlawful presence of an alien.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered, provided that such assistance is rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.

''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).''.

(b) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i)(8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the

alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the

alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal, whether the removal order was entered before, on, or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary of Homeland Security shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of Homeland Security shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a Department of Homeland Security detention facility.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 220. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 221. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 222. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 223. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 224. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by inserting at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful

shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 225. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2006, an alien who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land or maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2006, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) shall not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 226. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State or Federal law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien, whether or not admitted into the United States, was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—'''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i) by striking ''Any'' and inserting ''Except as provided in clause (viii), any'';

(2) in subparagraph (A) by inserting after clause (vii) the following:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in section 101(a)(43)(A), section 101(a)(43)(I), or section 101(a)(43)(K), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in section 101(a)(43)(A), section 101(a)(43)(I), or section 101(a)(43)(K), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(viii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this subsection shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security

that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States, either—

''(i) not later than 72 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 72 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State or a political subdivision of a State for expenses, as verified by the Secretary of Homeland Security, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) The cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that aliens incarcerated in a Federal facility pursuant to this subsection are held in facilities which provide an appropriate level of security, and that, where practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States and political subdivisions of States which routinely submit requests described in subsection (c) into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or where appropriate, the political subdivision in which the agencies are located has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 230. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; or

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180 time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 231. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 232. SEVERABILITY.

If any provision of this title, any amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Securing America's Borders Act, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has

established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii) a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-

match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquire to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Securing America's Borders Act, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Securing America's Borders Act, the Secretary may require additional any employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Securing America's Borders Act, Secretary shall require an employer with more than 5,000 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MID-SIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Securing America's Borders Act, the Secretary shall require an employer with less than 5,000 employees and with more than 1,000 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Securing America's Borders Act, the Secretary shall require all employers with less than 1,000 employees and with more than 250 employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Securing America's Borders Act, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Securing America's Borders Act, if the Secretary has reasonable causes to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Securing America's Borders Act, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Securing America's Borders Act, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which

the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of the subsection (b), (c), and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good-faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring as a condition of conducting, continuing, or expanding a business that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(d)(9)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—BACKLOG REDUCTION AND VISAS FOR STUDENTS, MEDICAL PROVIDERS, AND ALIENS WITH ADVANCED DEGREES

SEC. 401. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A) 290,000;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 402. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 403. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American

Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 404. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 405. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(C), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $1,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 406. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(G) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(H) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

SEC. 407. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note; Public Law 103–416) is amended by striking ''Act and before June 1, 2006.'' and inserting ''Act.''.

TITLE V—IMMIGRATION LITIGATION REDUCTION

SEC. 501. CONSOLIDATION OF IMMIGRATION APPEALS.

(a) REAPPORTIONMENT OF CIRCUIT COURT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended in the item relating to the Federal Circuit by striking ''12'' and inserting ''15''.

(b) REVIEW OF ORDERS OF REMOVAL.—Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (2), by striking the first sentence and inserting ''The petition for review shall be filed with the United Sates Court of Appeals for the Federal Circuit.'';

(2) in paragraph (5)(B), by adding at the end the following: ''Any appeal of a decision by the district court under this paragraph shall be filed with the United States Court of Appeals for the Federal Circuit.''; and

(3) in paragraph (7), by amending subparagraph (C) to read as follows:

''(C) CONSEQUENCE OF INVALIDATION AND VENUE OF APPEALS.—

''(i) INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a).

''(ii) APPEALS.—The United States Government may appeal a dismissal under clause (i) to the United States Court of Appeals for the Federal Circuit within 30 days after the date of the dismissal. If the district court rules that the removal order is valid, the defendant may appeal the district court decision to the United States Court of Appeals for the Federal Circuit within 30 days after the date of completion of the criminal proceeding.''.

(c) REVIEW OF ORDERS REGARDING INADMISSABLE ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended by adding at the end the following new paragraph:

''(6) VENUE.—The petition to appeal any decision by the district court pursuant to this subsection shall be filed with the United States Court of Appeals for the Federal Circuit.''.

(d) EXCLUSIVE JURISDICTION.—Section 242(g) (8 U.S.C. 1252(g)) is amended—

(1) by striking ''Except''; and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) APPEALS.—Notwithstanding any other provision of law, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review a district court order arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States, including a district court order granting or denying a petition for writ of habeas corpus.''.

(e) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) EXCLUSIVE JURISDICTION.—Section 1295(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(15) of an appeal to review a final administrative order or a district court decision arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States.''.

(2) CONFORMING AMENDMENTS.—Such section 1295(a) is further amended—

(A) in paragraph (13), by striking ''and''; and

(B) in paragraph (14), by striking the period at the end and inserting a semicolon and ''and''.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Court of Appeals for the Federal Circuit for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of additional attorneys for the such Court.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of this Act and shall apply to any final agency order or district court decision entered on or after the date of enactment of this Act.

SEC. 502. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) LITIGATION ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(2) UNITED STATES ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys' office to litigate immigration cases in the Federal courts.

(3) IMMIGRATION JUDGES.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 20 the number of full-time immigration judges compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 80 the number of positions for personnel to support the immigration judges described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year.

(4) STAFF ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 10 the number of positions for full-time staff attorneys in the Board of Immigration Appeals compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 10 the number of positions for personnel to support the staff attorneys described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

(c) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, increase by not less than 50 the number of attorneys in the Federal Defenders Program who litigate criminal immigration cases in the Federal courts.

SEC. 503. BOARD OF IMMIGRATION APPEALS REMOVAL ORDER AUTHORITY.

(a) IN GENERAL.—Section 101(a)(47) (8 U.S.C. 1101(a)(47)) is amended to read as follows:

''(47)(A)(i) The term 'order of removal' means the order of the immigration judge, the Board of Immigration Appeals, or other administrative officer to whom the Attorney General or the Secretary of Homeland Security has delegated the responsibility for determining whether an alien is removable, concluding that the alien is removable, or ordering removal.

''(ii) The term 'order of deportation' means the order of the special inquiry officer, immigration judge, the Board of Immigration Appeals, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable, or ordering deportation.

''(B) An order described under subparagraph (A) shall become final upon the earlier of—

''(i) a determination by the Board of Immigration Appeals affirming such order;

''(ii) the entry by the Board of Immigration Appeals of such order;

''(iii) the expiration of the period in which any party is permitted to seek review of such order by the Board of Immigration Appeals;

''(iv) the entry by an immigration judge of such order, if appeal is waived by all parties; or

''(v) the entry by another administrative officer of such order, at the conclusion of a process authorized by law other than under section 240.''.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended—

(1) in section 212(d)(12)(A) (8 U.S.C. 1182(d)(12)(A)), by inserting ''an order of'' before ''removal''; and

(2) in section 245A(g)(2)(B) (8 U.S.C. 1255a(g)(2)(B))—

(A) in the heading, by inserting '', REMOVAL,'' after ''DEPORTATION''; and

(B) in clause (i), by striking ''deportation,'' and inserting ''deportation or an order of removal,''.

SEC. 504. JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) (8 U.S.C. 1201(i)) is amended by striking the last sentence and inserting ''Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.''.

SEC. 505. REINSTATEMENT OF REMOVAL ORDERS.

(a) REINSTATEMENT.—

(1) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended to read as follows:

''(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

''(A) IN GENERAL.—If the Secretary of Homeland Security finds that an alien has entered the United States illegally after having been removed, deported, or excluded or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

''(i) the order of removal, deportation, or exclusion is reinstated from its original date and is not subject to being reopened or reviewed notwithstanding section 242(a)(2)(D);

''(ii) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application or request for such relief may have been filed or made; and

''(iii) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

''(B) NO OTHER PROCEEDINGS.—Reinstatement under this paragraph shall not require proceedings under section 240 or other proceedings before an immigration judge.''.

(2) CONFORMING AMENDMENT.—Section 242(a)(2)(D) (8 U.S.C. 1252(a)(2)(D)) is amended by striking ''section)'' and inserting ''section or section 241(a)(5))''.

(b) JUDICIAL REVIEW.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

''(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER SECTION 241(a)(5).—

''(1) REVIEW OF REINSTATEMENT.—Judicial review of a determination under section 241(a)(5) is available under subsection (a) of this section.

''(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from or relating to any challenge to the original order.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated on or after that date by the Secretary (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

SEC. 506. WITHHOLDING OF REMOVAL.

(a) IN GENERAL.—Section 241(b)(3) (8 U.S.C. 1231(b)(3)) is amended—

(1) in subparagraph (A), by adding at the end ''The burden of proof is on the alien to establish that the alien's life or freedom would be threatened in that country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least one central reason for such threat.''; and

(2) in subparagraph (C), by striking ''In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A)'' and inserting ''For purposes of this paragraph,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on May 11, 2005, and shall apply to applications for withholding of removal made on or after such date.

SEC. 507. CERTIFICATE OF REVIEWABILITY.

(a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

''(C) BRIEFS.—

''(i) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this subparagraph, the court shall dismiss the appeal unless a manifest injustice would result.

''(ii) UNITED STATES BRIEF.—The United States shall not be afforded an opportunity to file a brief in response to the alien's brief until a judge issues a certificate of reviewability as provided in subparagraph (D), unless the court requests the United States to file a reply brief prior to issuing such certification.''.

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding at the end the following new subparagraphs:

''(D) CERTIFICATE OF REVIEWABILITY.—

''(i) After the alien has filed a brief, the petition for review shall be assigned to one judge on the Federal Circuit Court of Appeals.

''(ii) Unless such judge issues a certificate of reviewability, the petition for review shall be denied and the United States may not file a brief.

''(iii) Such judge may not issue a certificate of reviewability under clause (ii) unless the petitioner establishes a prima facie case that the petition for review should be granted.

''(iv) Such judge shall complete all action on such certificate, including rendering judgment, not later than 60 days after the date on which the judge is assigned the petition for review, unless an extension is granted under clause (v).

''(v) Such judge may grant, on the judge's own motion or on the motion of a party, an extension of the 60-day period described in clause (iv) if—

''(I) all parties to the proceeding agree to such extension; or

''(II) such extension is for good cause shown or in the interests of justice, and the judge states the grounds for the extension with specificity.

''(vi) If no certificate of reviewability is issued before the end of the period described in clause (iv), including any extension under clause (v), the petition for review shall be denied, any stay or injunction on petitioner's removal shall be dissolved without further action by the court or the Government, and the alien may be removed.

''(vii) If such judge issues a certificate of reviewability under clause (ii), the Government shall be afforded an opportunity to file a brief in response to the alien's brief. The alien may serve and file a reply brief not later than 14 days after service of the Government brief, and the court may not extend this deadline except upon motion for good cause shown.

''(E) NO FURTHER REVIEW OF DECISION NOT TO ISSUE A CERTIFICATE OF REVIEWABILITY.—The decision of a judge on the Federal Circuit Court of Appeals not to issue a certificate of reviewability or to deny a petition for review, shall be the final decision for the Federal Circuit Court of Appeals and may not be reconsidered, reviewed, or reversed by the such Court through any mechanism or procedure.''.

SEC. 508. DISCRETIONARY DECISIONS ON MOTIONS TO REOPEN OR RECONSIDER.

(a) EXERCISE OF DISCRETION.—Section 240(c) (8 U.S.C. 1229a(c)) is amended—

(1) in paragraph (6), by adding at the end the following new subparagraph:

''(D) DISCRETION.—The decision to grant or deny a motion to reconsider is committed to the Attorney General's discretion.''; and

(2) in paragraph (7), by adding at the end the following new subparagraph:

''(D) DISCRETION.—The decision to grant or deny a motion to reopen is committed to the Attorney General's discretion.''.

(b) ELIGIBILITY FOR PROTECTION FROM REMOVAL TO ALTERNATIVE COUNTRY.—Section 240(c) (8 U.S.C. 1229a(c)), as amended by subsection (a), is further amended by adding at the end of paragraph (7)(C) the following new clause:

''(v) SPECIAL RULE FOR ALTERNATIVE COUNTRIES OF REMOVAL.—The requirements of this paragraph may not apply if—

''(I) the Secretary of Homeland Security is seeking to remove the alien to an alternative or additional country of removal under paragraph (1)(C), 2(D), or 2(E) of section 241(b) that was not considered during the alien's prior removal proceedings;

''(II) the alien's motion to reopen is filed within 30 days after receiving notice of the Secretary's intention to remove the alien to that country; and

''(III) the alien establishes a prima facie case that the alien is entitled by law to withholding of removal under section 241(b)(3) or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, with respect to that particular country.''.

(c) EFFECTIVE DATE.—This amendment made by this section shall apply to motions to reopen or reconsider which are filed on or after the date of the enactment of this Act in removal, deportation, or exclusion proceedings, whether a final administrative order is entered before, on, or after the date of the enactment of this Act.

SEC. 509. PROHIBITION OF ATTORNEY FEE AWARDS FOR REVIEW OF FINAL ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252), as amended by section 505(b), is further amended by adding at the end the following new subsection:

''(i) PROHIBITION ON ATTORNEY FEE AWARDS.—Notwithstanding any other provision of law, a court may not award fees or other expenses to an alien based upon the alien's status as a prevailing party in any proceedings relating to an order of removal issued under this Act, unless the court of appeals concludes that the determination of the Attorney General or the Secretary of Homeland Security that the alien was removable under sections 212 and 237 was not substantially justified.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proceedings relating to an order of removal issued on or after the date of the enactment of this Act, regardless of the date that such fees or expenses were incurred.

SEC. 510. BOARD OF IMMIGRATION APPEALS.

(a) REQUIREMENT TO HEAR CASES IN 3-MEMBER PANELS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), cases before the Board of Immigration Appeals of the Department of Justice shall be heard by 3-member panels of such Board.

(2) HEARING BY A SINGLE MEMBER.—A 3-member panel of the Board of Immigration Appeals or a member of such Board alone may—

(A) summarily dismiss any appeal or portion of any appeal in any case which—

(i) the party seeking the appeal fails to specify the reasons for the appeal;

(ii) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(iii) the appeal is from an order that granted such party the relief that had been requested;

(iv) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(v) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law;

(B) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(C) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(3) HEARING EN BANC.—The Board of Immigration Appeals may, by a majority vote of the Board members—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel.

(b) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board of Immigration Appeals may affirm the decision of an immigration judge without opinion only if—

(1) the decision of the immigration judge resolved all issues in the case;

(2) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(3) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(4) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(c) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall promulgate regulations to carry out this section.

TITLE VI—MISCELLANEOUS

SEC. 601. TECHNICAL AND CONFORMING AMENDMENTS.

The Attorney General, in consultation with the Secretary, shall, as soon as practicable but not later than 90 days after the date of the enactment of this Act, submit to Congress a draft of any technical and conforming changes in the Immigration and Nationality Act which are necessary to reflect the changes in the substantive provisions of law made by the Homeland Security Act of 2002, this Act, or any other provision of law.

SA 3421. Mr. NELSON of Nebraska proposed an amendment to amendment SA 3420 proposed by Mr. SESSIONS to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place in the Sessions amendment add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Border Security and Interior Enforcement Improvement Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—SOUTHWEST BORDER SECURITY

Sec. 101. Construction of fencing and security improvements in border area from Pacific Ocean to Gulf of Mexico.
Sec. 102. Border patrol agents.
Sec. 103. Increased availability of Department of Defense equipment to assist with surveillance of southern international land border of the United States.
Sec. 104. Ports of entry.
Sec. 105. Authorization of appropriations.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

Sec. 201. Necessary assets for controlling United States borders.
Sec. 202. Additional immigration personnel.
Sec. 203. Additional worksite enforcement and fraud detection agents.
Sec. 204. Document fraud detection.
Sec. 205. Powers of immigration officers and employees.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

Sec. 211. Entry-exit system.
Sec. 212. State and local law enforcement provision of information regarding aliens.
Sec. 213. Listing of immigration violators in the National Crime Information Center database.
Sec. 214. Determination of immigration status of individuals charged with Federal offenses.

Subtitle C—Detention of Aliens and Reimbursement of Costs

Sec. 221. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
Sec. 222. Federal custody of illegal aliens apprehended by State or local law enforcement.
Sec. 223. Institutional Removal Program.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

Sec. 231. Congressional affirmation of immigration law enforcement authority by States and political subdivisions of States.
Sec. 232. Immigration law enforcement training of State and local law enforcement personnel.
Sec. 233. Immunity.

TITLE III—VISA REFORM AND ALIEN STATUS

Subtitle A—Limitations on Visa Issuance and Validity

Sec. 301. Curtailment of visas for aliens from countries denying or delaying repatriation of nationals.
Sec. 302. Judicial review of visa revocation.
Sec. 303. Elimination of diversity immigrant program.
Sec. 304. Completion of background and security checks.
Sec. 305. Naturalization and good moral character.
Sec. 306. Denial of benefits to terrorists and criminals.
Sec. 307. Repeal of adjustment of status of certain aliens physically present in United States under section 245(i).
Sec. 308. Grounds of Inadmissibility and Removability for Persecutors.
Sec. 309. Technical Corrections to SEVIS Reporting Requirements.

TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

Sec. 401. Short title.
Sec. 402. Findings.

Subtitle B—Employment Eligibility Verification System

Sec. 411. Employment Eligibility Verification System.
Sec. 412. Employment eligibility verification process.
Sec. 413. Expansion of employment eligibility verification system to previously hired individuals and recruiting and referring.
Sec. 414. Extension of preemption to required construction of day laborer shelters.
Sec. 415. Basic pilot program.
Sec. 416. Protection for United States workers and individuals reporting immigration law violations.
Sec. 417. Penalties.

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

Sec. 421. Verification responsibilities of the Commissioner of Social Security.
Sec. 422. Notification by commissioner of failure to correct social security information.
Sec. 423. Restriction on access and use.
Sec. 424. Sharing of information with the commissioner of Internal Revenue Service.
Sec. 425. Sharing of information with the Secretary of Homeland Security.

Subtitle D—Sharing of Information

Sec. 431. Sharing of information with the Secretary of Homeland Security and the Commissioner of Social Security.

Subtitle E—Identification Document Integrity

Sec. 441. Consular identification documents.
Sec. 442. Machine-readable tamper-resistant immigration documents.

Subtitle F—Effective Date; Authorization of Appropriations

Sec. 451. Effective date.
Sec. 452. Authorization of appropriations.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties

Sec. 501. Alien smuggling and related offenses.
Sec. 502. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.
Sec. 503. Improper entry by, or presence of, aliens.
Sec. 504. Fees and Employer Compliance Fund.
Sec. 505. Reentry of removed alien.
Sec. 506. Civil and criminal penalties for document fraud, benefit fraud, and false claims of citizenship.

Sec. 507. Rendering inadmissible and deportable aliens participating in criminal street gangs.
Sec. 508. Mandatory detention of suspected criminal street gang members.
Sec. 509. Ineligibility for asylum and protection from removal.
Sec. 510. Penalties for misusing social security numbers or filing false information with Social Security Administration.
Sec. 511. Technical and clarifying amendments.
Subtitle B—Detention, Removal, and Departure
Sec. 521. Voluntary departure reform.
Sec. 522. Release of aliens in removal proceedings.
Sec. 523. Expedited removal.
Sec. 524. Reinstatement of previous removal orders.
Sec. 525. Cancellation of removal.
Sec. 526. Detention of dangerous alien.
Sec. 527. Alternatives to detention.
Sec. 528. Authorization of appropriations.

SEC. 2. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such holding.

TITLE I—SOUTHWEST BORDER SECURITY

SEC. 101. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

(a) IN GENERAL.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1103 note) is amended to read as follows—

''(1) BORDER SECURITY IMPROVEMENTS.—

''(A) BORDER ZONE CREATION.—

''(i) IN GENERAL.—In carrying out subsection (a), the Secretary of Homeland Security shall create and control a border zone, along the international land border between the United States and Mexico, subject to the following conditions:

''(I) SIZE.—The border zone shall consist of the United States land area within 100 yards of such international land border, except that with respect to areas of the border zone that are contained within an organized subdivision of a State or local government, the Secretary may adjust the area included in the border zone to accommodate existing public and private structures.

''(II) FEDERAL LAND.—Not later than 30 days after the date of the enactment of the Border Security and Interior Enforcement Improvement Act of 2006, the head of each Federal agency having jurisdiction over Federal land included in the border zone shall transfer such land, without reimbursement, to the administrative jurisdiction of the Secretary of Homeland Security.

''(III) CONSULTATION.—Before installing any fencing or other physical barriers, roads, lighting, or sensors under subparagraph (B) on land transferred by the Secretary of Defense under subclause (II), the Secretary of Homeland Security shall consult with the Secretary of Defense for purposes of mitigating or limiting the impact of the fencing, barriers, roads, lighting, and sensors on military training and operations.

''(ii) OTHER USES.—The Secretary may authorize the use of land included in the border zone for other purposes so long as such use does not impede the operation or effectiveness of the security features installed under subparagraph (B) or the ability of the Secretary to carry out subsection (a).

''(B) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall provide for—

''(i) the construction along the southern international land border between the United States and Mexico, starting at the Pacific Ocean and extending eastward to the Gulf of Mexico, of at least 2 layers of reinforced fencing; and

''(ii) the installation of such additional physical barriers, roads, lighting, ditches, and sensors along such border as may be necessary to eliminate illegal crossings and facilitate legal crossings along such border.

''(C) PRIORITY AREAS.—With respect to the border described in subparagraph (B), the Secretary shall ensure that initial fence construction occurs in high traffic and smuggling areas along such border.''.

(b) CONFORMING AMENDMENTS.—Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1103 note) as amended by subsection (a) is further amended—

(1) in subsection (a), by striking ''Attorney General, in consultation with the Commissioner of Immigration and Naturalization,'' and inserting ''Secretary of Homeland Security'';

(2) in subsection (b), by striking the heading and inserting ''BORDER ZONE CREATION AND REINFORCED FENDING—''; and

(3) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 102. BORDER PATROL AGENTS.

Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended—

(1) by striking ''2010'' both places it appears and inserting ''2011''; and

(2) by striking ''2,000'' and inserting ''3,000''.

SEC. 103. INCREASED AVAILABILITY OF DEPARTMENT OF DEFENSE EQUIPMENT TO ASSIST WITH SURVEILLANCE OF SOUTHERN INTERNATIONAL LAND BORDER OF THE UNITED STATES.

(a) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary of Defense and the Secretary of Homeland Security shall develop and implement a plan to use the authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist with Department of Homeland Security surveillance activities conducted at or near the southern international land border of the United States.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall submit a report to Congress that contains—

(1) a description of the current use of Department of Defense equipment to assist with Department of Homeland Security surveillance of the southern international land border of the United States;

(2) the plan developed under subsection (a) to increase the use of Department of Defense equipment to assist with such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by Department of Defense under such plan during the 1-year period beginning after submission of the report.

SEC. 104. PORTS OF ENTRY.

To facilitate legal trade, commerce, tourism, and legal immigration, the Secretary of Homeland Security is authorized to—

(1) construct additional ports of entry along the international land border of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $5,000,000,000 to carry out section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1103), as amended by section 101. Such sums shall be available until expended.

(b) BORDER PATROL AGENTS.—There are authorized to be appropriated $3,000,000,000 to carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), as amended by section 102.

(c) PORTS OF ENTRY.—There are authorized to be appropriated $125,000,000 to carry out section 104.

(d) CONFORMING AMENDMENT.—Section 102(b)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is repealed.

TITLE II—FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT

Subtitle A—Additional Federal Resources

SEC. 201. NECESSARY ASSETS FOR CONTROLLING UNITED STATES BORDERS.

(a) PERSONNEL.—

(1) CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2007 through 2011, the Secretary of Homeland Security shall increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out paragraph (1).

(b) TECHNOLOGICAL ASSETS.—

(1) ACQUISITION.—The Secretary of Homeland Security shall procure unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of fiscal years 2007 through 2011 to carry out paragraph (1).

(c) BORDER PATROL CHECKPOINTS.—Notwithstanding any other provision of law or regulation, temporary or permanent checkpoints may be maintained on roadways in border patrol sectors close to the international land borders of the United States in such locations and for such time period durations as the Secretary of Homeland Security, in the Secretary's sole discretion, determines necessary.

SEC. 202. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), for each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 200 the number of positions for investigative personnel within the Department of Homeland Security investigating alien smuggling and immigration status violations above the number of such positions for which funds were made available during the preceding fiscal year.

(2) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of

the Department of Homeland Security who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) ASSISTANT ATTORNEY GENERAL FOR IMMIGRATION ENFORCEMENT.—

(A) ESTABLISHMENT.—There is established within the Department of Justice the position of Assistant Attorney General for Immigration Enforcement. The Assistant Attorney General for Immigration Enforcement shall coordinate and prioritize immigration litigation and enforcement in the Federal courts, including—

(i) removal and deportation;

(ii) employer sanctions; and

(iii) alien smuggling and human trafficking.

(B) CONFORMING AMENDMENT.—Section 506 of title 28, United States Code, is amended by striking ''ten'' and inserting ''11''.

(2) LITIGATION ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice above the number of such positions for which funds were made available during the preceding fiscal year.

(3) ASSISTANT UNITED STATES ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of Assistant United States Attorneys to litigate immigration cases in the Federal courts above the number of such positions for which funds were made available during the preceding fiscal year.

(4) IMMIGRATION JUDGES.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of immigration judges above the number of such positions for which funds were made available during the preceding fiscal year.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a) above the number of such positions in which funds were made available during the preceding fiscal year.

(b) FRAUD DETECTION.—In each of fiscal years 2007 through 2011, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for Immigration Enforcement Agents dedicated to immigration fraud detection above the number of such positions in which funds were made available during the preceding fiscal year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated during each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 204. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary of Homeland Security shall provide all customs and border protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary of Homeland Security shall provide all officers of the Bureau of Customs and Border Protection with access to the Forensic Document Laboratory.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 205. POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES.

Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)) is amended—

(1) by striking paragraph (5) and the 2 undesignated paragraphs following paragraph (5);

(2) in the material preceding paragraph (1)—

(A) by striking ''(a) Any'' and inserting ''(a)(1) Any''; and

(B) by striking ''Service'' and inserting ''Department of Homeland Security'';

(3) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(4) by inserting after subparagraph (D), as redesignated by paragraph (3), the following:

''(E) to make arrests—

''(i) for any offense against the United States, if the offense is committed in the officer's or employee's presence; or

''(ii) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

''(2) Under regulations prescribed by the Attorney General or the Secretary of Homeland Security, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States.''.

Subtitle B—Maintaining Accurate Enforcement Data on Aliens

SEC. 211. ENTRY-EXIT SYSTEM.

(a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Section 110(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(b)(1)) is amended to read as follows:

''(1) provides access to, and integrates, arrival and departure data of all aliens who arrive and depart at ports of entry, in an electronic format and in a database of the Department of Homeland Security or the Department of State (including those created or used at ports of entry and at consular offices);''.

(b) CONSTRUCTION.—Section 110(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(c)) is amended to read as follows:

''(c) CONSTRUCTION.—Nothing in this section shall be construed to reduce or curtail any authority of the Secretary of Homeland Security or the Secretary of State under any other provision of law.''.

(c) DEADLINES.—Section 110(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(d)) is amended—

(1) in paragraph (1), by striking ''December 31, 2003'' and inserting ''October 1, 2006''; and

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

''(2) LAND BORDER PORTS OF ENTRY.—Not later than October 1, 2006, the Secretary of Homeland Security shall implement the integrated entry and exit data system using the data described in paragraph (1) and available alien arrival and departure data described in subsection (b)(1) pertaining to aliens arriving in, or departing from, the United States at all land border ports of entry. Such implementation shall include ensuring that such data, when collected or created by an immigration officer at a port of entry, are entered into the system and can be accessed by immigration officers at airports, seaports, and other land border ports of entry.''.

(d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—Section 110(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a(f)(1)) is amended by adding at the end: ''The Secretary of Homeland Security shall ensure that any officer or employee of the Department of Homeland Security or the Department of State having need to access the data contained in the integrated entry and exit data system for any lawful purpose under the Immigration and Nationality Act has such access, including access for purposes of representation of the Department of Homeland Security in removal proceedings under section 240 of such Act and adjudication of applications for benefits under such Act.''.

(e) BIOMETRIC DATA ENHANCEMENTS.—Not later than October 1, 2006, the Secretary of Homeland Security shall—

(1) in consultation with the Attorney General, enhance connectivity between the automated biometric fingerprint identification system (IDENT) of the Department of Homeland Security and the integrated automated fingerprint identification system (IAFIS) of the Federal Bureau of Investigation fingerprint databases to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all 10 fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), as amended by this section.

SEC. 212. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION REGARDING ALIENS.

(a) VIOLATIONS OF FEDERAL LAW.—A statute, policy, or practice that prohibits, or restricts in any manner, a law enforcement or administrative enforcement officer of a State or of a political subdivision therein, from enforcing Federal immigration laws or from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the investigative or enforcement duties of the officer or from providing information to an official of the United States Government regarding the immigration status of an individual who is believed to be illegally present in the United States, is in violation of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644).

(b) STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ILLEGAL ALIENS.—

(1) PROVISION OF INFORMATION.—

(A) IN GENERAL.—In compliance with section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each

law enforcement agency of a State or of a political subdivision therein shall provide to the Department of Homeland Security the information listed in paragraph (2) for each alien who is apprehended in the jurisdiction of such agency and who cannot produce the valid certificate of alien registration or alien registration receipt card described in section 264(d) of the Immigration and Nationality Act (8 U.S.C. 1304(d)).

(B) TIME LIMITATION.—Not later than 15 days after an alien described in subparagraph (A) is apprehended, information required to be provided under subparagraph (A) shall be provided in such form and in such manner as the Secretary of Homeland Security may, by regulation or guideline, require.

(C) EXCEPTION.—The reporting requirement in paragraph (A) shall not apply in the case of any alien determined to be lawfully present in the United States.

(2) INFORMATION REQUIRED.—The information listed in this subsection is as follows:

(A) The alien's name.

(B) The alien's address or place of residence.

(C) A physical description of the alien.

(D) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(E) If applicable—

(i) the alien's driver's license number and the State of issuance of such license;

(ii) the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document;

(iii) the license number and description of any vehicle registered to, or operated by, the alien; and

(iv) a photo of the alien and a full set of the alien's 10 rolled fingerprints, if available or readily obtainable.

(3) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse such law enforcement agencies for the costs, per a schedule determined by the Secretary, incurred by such agencies in collecting and transmitting the information described in paragraph (2).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.—

(A) TECHNICAL AMENDMENT.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(i) in subsections (a), (b)(1), and (c), by striking ''Immigration and Naturalization Service'' each place it appears and inserting ''Department of Homeland Security''; and

(ii) in the heading by striking ''**IMMIGRATION AND NATURALIZATION SERVICE**'' and inserting ''**DEPARTMENT OF HOMELAND SECURITY**''.

(B) CONFORMING AMENDMENT.—Section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546) is amended by striking the item related to section 642 and inserting the following:

''Sec. 642. Communication between government agencies and the Department of Homeland Security.''.

(2) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) IN GENERAL.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644) is amended—

(i) by striking ''**IMMIGRATION AND NATURALIZATION SERVICE**'' and inserting ''**DEPARTMENT OF HOMELAND SECURITY**''; and

(ii) in the heading by striking ''immigration and naturalization service'' and inserting ''department of homeland security''.

(B) CONFORMING AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by striking the item related to section 434 and inserting the following:

''Sec. 434. Communication between State and local government agencies and the Department of Homeland Security.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the requirements of this section.

SEC. 213. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary of Homeland Security has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(2) or (b)(2) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) detained by a Federal, State, or local law enforcement agency whom a Federal immigration officer has confirmed to be unlawfully present in the United States but, in the exercise of discretion, has been released from detention without transfer into the custody of a Federal immigration officer;

(D) who has remained in the United States beyond the alien's authorized period of stay; and

(E) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary of Homeland Security under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or the alien has already been removed; and''.

SEC. 214. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning 2 years after the date of the enactment of this Act, the office of the United States attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with the Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2012, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

Subtitle C—Detention of Aliens and Reimbursement of Costs

SEC. 221. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department of Homeland Security. The detention facilities shall be located so as

to enable the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary of Homeland Security shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 222. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY.

''(a) IN GENERAL.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an illegal alien; and

''(B) if the individual is an illegal alien, either—

''(i) not later than 72 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 72 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the illegal alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of criminal or illegal aliens to the Department of Homeland Security.

''(b) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State or a political subdivision of a State for expenses, as verified by the Secretary of Homeland Security, incurred by the State or political subdivision in the detention and transportation of a criminal or illegal alien as described in subparagraphs (A) and (B) of subsection (a)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (a)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the criminal or illegal alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained illegal alien during the period between the time of transmittal of the request described in subsection (a) and the time of transfer into Federal custody.

''(c) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in a Federal facility pursuant to this subsection are held in facilities which provide an appropriate level of security, and that, where practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(d) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended illegal aliens from the custody of those States and political subdivisions of States which routinely submit requests described in subsection (a) into Federal custody.

''(e) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or where appropriate, the political subdivision in which the agencies are located has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.

''(f) ILLEGAL ALIEN DEFINED.—In this section, the term 'illegal alien' means an alien who—

''(1) entered the United States without inspection or at any time or place other than that designated by the Secretary of Homeland Security;

''(2) was admitted as a nonimmigrant and who, at the time the alien was taken into custody by the State or a political subdivision of the State, had failed to—

''(A) maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248; or

''(B) comply with the conditions of any such status;

''(3) was admitted as an immigrant and has subsequently failed to comply with the requirements of that status; or

''(4) failed to depart the United States under a voluntary departure agreement or under a final order of removal.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 223. INSTITUTIONAL REMOVAL PROGRAM.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary of Homeland Security shall continue to operate the Institutional Removal Program or develop and implement any other program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary of Homeland Security shall extend the institutional removal program to all States. Each State should—

(A) cooperate with officials of the Federal Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey the information collected under subparagraph (B) to officials of the Institutional Removal Program.

(b) IMPLEMENTATION OF COOPERATIVE INSTITUTIONAL REMOVAL PROGRAMS.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373), is amended by adding at the end the following:

''(d) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State are authorized to—

''(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien's State prison sentence in order to effectuate the transfer of the alien to Federal custody when the alien is removable or not lawfully present in the United States; or

''(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from the Bureau of Immigration and Customs Enforcement can take the alien into custody.

''(e) TECHNOLOGY USAGE.—Technology such as videoconferencing shall be used to the maximum extent practicable in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens, such as the automated biometric fingerprint identification system (IDENT) of the Department of Homeland Security, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

''(f) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of the Border Security and Interior Enforcement Improvement Act of 2006, the Secretary of Homeland Security shall submit to Congress a report on the participation of States in the Institutional Removal Program and in any other program carried out under subsection (a).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the Institutional Removal Program—

''(1) $30,000,000 for fiscal year 2007;

''(2) $40,000,000 for fiscal year 2008;

''(3) $50,000,000 for fiscal year 2009;

''(4) $60,000,000 for fiscal year 2010; and

''(5) $70,000,000 for fiscal year 2011 and each fiscal year thereafter.''.

Subtitle D—State, Local, and Tribal Enforcement of Immigration Laws

SEC. 231. CONGRESSIONAL AFFIRMATION OF IMMIGRATION LAW ENFORCEMENT AUTHORITY BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel

of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

SEC. 232. IMMIGRATION LAW ENFORCEMENT TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.

(a) TRAINING MANUAL AND POCKET GUIDE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish—

(A) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(B) an immigration enforcement pocket guide for law enforcement personnel of a State or political subdivision of a State to provide a quick reference for such personnel in the course of duty.

(2) AVAILABILITY.—The training manual and pocket guide established in accordance with paragraph (1) shall be made available to all State and local law enforcement personnel.

(3) APPLICABILITY.—Nothing in this subsection shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established in accordance with paragraph (1) with them while on duty.

(4) COSTS.—The Secretary of Homeland Security shall be responsible for any and all costs incurred in establishing the training manual and pocket guide under this subsection.

(b) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at the Center for Domestic Preparedness of the Department of Homeland Security, on-site training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) ONLINE TRAINING.—The head of the Distributed Learning Program of the Federal Law Enforcement Training Center shall make training available for State and local law enforcement personnel via the Internet through a secure, encrypted distributed learning system that has all its servers based in the United States.

(3) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(c) COOPERATIVE ENFORCEMENT PROGRAMS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

(d) DURATION OF TRAINING.—Section 287(g)(2) of the Immigration and Nationalization Act (8 U.S.C. 1357(g)(2)) is amended by adding at the end ''Such training may not exceed 14 days or 80 hours of classroom training.''.

(e) CLARIFICATION.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising the inherent authority of the officer to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody illegal aliens during the normal course of carrying out the law enforcement duties of the officer.

(f) TECHNICAL AMENDMENTS.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 233. IMMUNITY.

(a) PERSONAL IMMUNITY.—Notwithstanding any other provision of law, a law enforcement officer of a State, or of a political subdivision of a State, shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the enforcement of any immigration law. The immunity provided by this subsection shall only apply to an officer of a State, or of a political subdivision of a State, who is acting within the scope of such officer's official duties.

(b) AGENCY IMMUNITY.—Notwithstanding any other provision of law, a law enforcement agency of a State, or of a political subdivision of a State, shall be immune from any claim for money damages based on Federal, State, or local civil rights law for an incident arising out of the enforcement of any immigration law, except to the extent that the law enforcement officer of such agency, whose action the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

TITLE III—VISA REFORM AND ALIEN STATUS

Subtitle A—Limitations on Visa Issuance and Validity

SEC. 301. CURTAILMENT OF VISAS FOR ALIENS FROM COUNTRIES DENYING OR DELAYING REPATRIATION OF NATIONALS.

(a) IN GENERAL.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended by adding at the end the following new subsection:

''(e) PUBLIC LISTING OF ALIENS WITH NO SIGNIFICANT LIKELIHOOD OF REMOVAL.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish and maintain a public listing of every alien who is subject to a final order of removal and with respect to whom the Secretary or any Federal court has determined that there is no significant likelihood of removal in the reasonably foreseeable future due to the refusal, or unreasonable delay, of all countries designated by the alien under this section to receive the alien. The public listing shall indicate whether such alien has been released from Federal custody, and the city and State in which such alien resides.

''(2) DISCONTINUATION OF VISAS.—If 25 or more of the citizens, subjects, or nationals of any foreign state remain on the public listing described in paragraph (1) throughout any month—

''(A) such foreign state shall be deemed to have denied or unreasonably delayed the acceptance of such aliens;

''(B) the Secretary of Homeland Security shall make the notification to the Secretary of State prescribed in subsection (d) of this section; and

''(C) the Secretary of State shall discontinue the issuance of nonimmigrant visas to citizens, subjects, or nationals of such foreign state until such time as the number of aliens on the public listing from such foreign state has—

''(i) declined to fewer than 6; or

''(ii) remained below 25 for at least 30 days.''.

(b) TECHNICAL AMENDMENT.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)(D), by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'';

(2) in subsection (c)—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) by striking ''Commissioner'' and inserting ''Secretary''; and

(3) in subsection (d)—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''of State'' after ''notifies the Secretary''.

SEC. 302. JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking '', except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B)''.

SEC. 303. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting ''and'' at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking ''(a), (b), or (c),'' and inserting ''(a) or (b),'';

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''; and

(5) in subsection (g), by striking ''(a), (b), and (c)'' and inserting ''(a) and (b)''.

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 304. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

''(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court shall not—

''(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,

until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.''.

SEC. 305. NATURALIZATION AND GOOD MORAL CHARACTER.

(a) NATURALIZATION REFORM.—

(1) BARRING TERRORISTS FROM NATURALIZATION.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following new subsection:

''(g) No person shall be naturalized who the Secretary of Homeland Security determines, in the Secretary's discretion, to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and shall be binding upon, and unreviewable by, any court exercising jurisdiction under the immigration laws over any application for naturalization, regardless whether such jurisdiction to review a decision or action of the Secretary is de novo or otherwise.''.

(2) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—The last sentence of section 318 of such Act (8 U.S.C. 1429) is amended—

(A) by striking ''shall be considered by the Attorney General'' and inserting ''shall be considered by the Secretary of Homeland Security or any court'';

(B) by striking ''pursuant to a warrant of arrest issued under the provisions of this or any other Act:'' and inserting ''or other proceeding to determine the applicants inadmissibility or deportability, or to determine whether the applicants lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced:''; and

(C) by striking ''upon the Attorney General'' and inserting ''upon the Secretary of Homeland Security''.

(3) PENDING DENATURALIZATION OR REMOVAL PROCEEDINGS.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by adding at the end ''No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(4) CONDITIONAL PERMANENT RESIDENTS.—Section 216(e) of such Act (8 U.S.C. 1186a(e)) and section 216A(e) of such Act (8 U.S.C. 1186b(e)) are each amended by inserting before the period at the end of each such section '', if the alien has had the conditional basis removed under this section''.

(5) DISTRICT COURT JURISDICTION.—Section 336(b) of such Act (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section (as such terms are defined in regulations issued by the Secretary), the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary for the Secretary's determination on the application.''.

(6) CONFORMING AMENDMENTS.—Section 310(c) of such Act (8 U.S.C. 1421(c)) is amended—

(A) by inserting '', not later than 120 days after the date of the Secretary's final determination'' before ''seek''; and

(B) by striking the second sentence and inserting ''The burden shall be upon the petitioner to show that the Secretary's denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, for purposes of an application for naturalization, whether an alien is a person of good moral character, whether an alien understands and is attached to the principles of the Constitution of the United States, or whether an alien is well disposed to the good order and happiness of the United States.''.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other case or matter under the immigration laws pending on, or filed on or after, such date.

(b) BAR TO GOOD MORAL CHARACTER.—

(1) IN GENERAL.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(A) by inserting after paragraph (1) the following new paragraph:

''(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been at any time an alien described in section 212(a)(3) or section 237(a)(4), which determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and which shall be binding upon any court regardless of the applicable standard of review;'';

(B) in paragraph (8), by inserting '', regardless whether the crime was classified as an aggravated felony at the time of conviction'' after ''(as defined in subsection (a)(43))''; and

(C) by striking the first sentence in the undesignated paragraph following paragraph (9) and inserting ''The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary and the Attorney General shall not be limited to the applicant's conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant's conduct and acts at any time.''.

(2) AGGRAVATED FELONY EFFECTIVE DATE.—Section 509(b) of the Immigration Act of 1990 (Public Law 101–649), as amended by section 306(a)(7) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232)), is amended to read as follows:

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on, or after such date.''.

(3) TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM ACT.—Section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3741) is amended by striking ''adding at the end'' and inserting ''inserting after paragraph (8) and before the undesignated paragraph at the end''.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other benefit or relief or any other case or matter under the immigration laws pending on, or filed on or after, such date; or

(B) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The amendments made by paragraph (3) shall take effect as if included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3638).

SEC. 306. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following new section:

''SEC. 219A. PROHIBITION ON PROVIDING IMMIGRATION BENEFITS TO CERTAIN ALIENS.

''Nothing in this Act or any other provision of law shall permit the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.''.

(b) INADMISSIBILITY ON SECURITY AND RELATED GROUNDS.—Section 212(a)(3)(B)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)(I)) is amended by inserting ''is able to demonstrate, by clear and convincing evidence, that such spouse or child'' after ''who''.

SEC. 307. REPEAL OF ADJUSTMENT OF STATUS OF CERTAIN ALIENS PHYSICALLY PRESENT IN UNITED STATES UNDER SECTION 245(i).

Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is repealed.

SEC. 308. GROUNDS OF INADMISSIBILITY AND REMOVABILITY FOR PERSECUTORS.

(a) GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION.—

(1) PERSECUTION.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(A) in the header, by striking ''NAZI''; and

(B) by inserting after clause (iii) the following new clause:

''(iv) PARTICIPATION IN OTHER PERSECUTION.—Any alien who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion is inadmissible.''.

(2) RECOMMENDATIONS BY CONSULAR OFFICERS.—Section 212(d)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)(A)) by striking ''and clauses (i) and (ii) of paragraph (3)(E)'' both places it appears and inserting ''or 3(E)''.

(b) GENERAL CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) in the header, by striking ''NAZI''; and

(2) by striking ''or (iii)'' and inserting ''(iii), or (iv)''.

(c) BAR TO GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) in paragraph (8), by striking ''or'';

(2) in paragraph (9), as added by section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3741), as amended by section 305(b)(3) of this Act, by striking the period at the end and inserting a semicolon and ''or''; and

(3) inserting after paragraph (9), as added by section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3741), as amended by section 305(b)(3) of this Act, and before the undesignated paragraph at the end the following new paragraph:

''(10) one who at any time has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.''.

(d) VOLUNTARY DEPARTURE.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) in subsection (a)(1), by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B)'' and inserting ''removable under section 237(a)(2)(A)(iii), subparagraph (B) or (D) or section 237(a)(4), or section 212(a)(3)(E).''; and

(2) in subsection (b)(1)(C), by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B)'' and inserting ''removable under section 237(a)(2)(A)(iii), subparagraph (B) or (D) of section 237(a)(4), or section 212(a)(3)(E).''.

(e) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—Section 277 of such Act (8 U.S.C. 1327) is amended by striking ''or 212(a)(3) (other than subparagraph (E) thereof)'' and inserting '', section 212(a)(3)''.

SEC. 309. TECHNICAL CORRECTIONS TO SEVIS REPORTING REQUIREMENTS.

(a) PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.—

(1) IN GENERAL.—Section 641(a)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)(4)) is amended—

(A) by striking ''Not later than 30 days after the deadline for registering for classes for an academic term'' and inserting ''Not later than the program start date (for new students) or the next session start date (for continuing students) of an academic term''; and

(B) by striking ''shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.'' and inserting ''shall report to the Secretary of Homeland Security any failure to enroll or to commence participation by the program start date or next session start date, as applicable.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—Except as provided in subparagraph (B), section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

(B) EXCEPTIONS.—Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended—

(i) in subsections (b), (c)(4)(A), (c)(4)(B), (e)(1), (e)(6), and (g) by inserting ''Secretary of Homeland Security or the'' before ''Attorney General'' each place that term appears;

(ii) by striking the heading of section (c)(4)(B) and inserting ''SECRETARY OF HOMELAND SECURITY AND ATTORNEY GENERAL''; and

(iii) in subsection (f), by inserting ''the Secretary of Homeland Security,'' before ''the Attorney General''.

(b) CLARIFICATION OF RELEASE OF INFORMATION.—Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), as amended by subsection (a), is further amended—

(1) in subsection (c)(1)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) in subparagraph (H), by striking the period and inserting a semicolon and ''and''; and

(C) by adding at the end the following new subparagraph:

''(I) any other information the Secretary of Homeland Security determines is necessary.''; and

(2) in subsection (c)(2), by adding at the end ''Approved institutions of higher education or other approved educational institutions shall release information regarding alien students referred to in this section to the Secretary of Homeland Security as part of such information collection program or upon request.''.

TITLE IV—WORKPLACE ENFORCEMENT AND IDENTIFICATION INTEGRITY

Subtitle A—In General

SEC. 401. SHORT TITLE.

This title may be cited as the ''Employment Security Act of 2006''.

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) The failure of Federal, State, and local governments to control and sanction the unauthorized employment and unlawful exploitation of illegal alien workers is a primary cause of illegal immigration.

(2) The use of modern technology not available in 1986, when the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) created the I–9 worker verification system, will enable employers to rapidly and accurately verify the identity and work authorization of their employees and independent contractors.

(3) The Government and people of the United States share a compelling interest in protection of United States employment authorization, income tax withholding, and social security accounting systems, against unauthorized access by illegal aliens.

(4) Limited data sharing between the Department of Homeland Security, the Internal Revenue Service, and the Social Security Administration is essential to the integrity of these vital programs, which protect the employment and retirement security of all working Americans.

(5) The Federal judiciary must be open to private United States citizens, legal foreign workers, and law-abiding enterprises that seek judicial protection against injury to their wages and working conditions due to unlawful employment of illegal alien workers and the United States enterprises that utilize the labor or services provided by illegal aliens, especially where lack of resources constrains enforcement of Federal immigration law by Federal immigration officials.

Subtitle B—Employment Eligibility Verification System

SEC. 411. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by adding at the end the following:

''(7) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish and administer a verification system, known as the Employment Eligibility Verification System, through which the Secretary—

''(i) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed; and

''(ii) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

''(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing verification or tentative nonverification, the verification system shall provide an appropriate code indicating such verification or such nonverification.

''(C) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONVERIFICATION.—In cases of tentative nonverification, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the date of the tentative nonverification. When final verification or nonverification is provided, the verification system shall provide an appropriate code indicating such verification or nonverification.

''(D) DESIGN AND OPERATION OF SYSTEM.—The verification system shall be designed and operated—

''(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

''(ii) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

''(iii) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

''(iv) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

''(I) the selective or unauthorized use of the system to verify eligibility;

''(II) the use of the system prior to an offer of employment; or

''(III) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such verification or nonverification) except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

''(F) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—(i) As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification or authorization number which are provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

''(ii) When a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number, the Secretary of Homeland Security shall conduct an investigation, within the time periods specified in subparagraphs (B) and (C), in order to ensure that no fraudulent use of a social security account number has taken place. If the Secretary has selected a designee to establish and administer the verification system, the designee shall notify the Secretary when a single employer has submitted to the verification system pursuant to paragraph (3)(A) the identical social security account number in more than one instance, or when multiple employers have submitted to the verification system pursuant to such paragraph the identical social security account number, in a manner which indicates the possible fraudulent use of that number. The designee shall also provide the Secretary with all pertinent information, including the name and address of the employer or employers who submitted the relevant social security account number, the relevant social security account number submitted by the employer or employers, and the relevant name and date of birth of the employee submitted by the employer or employers.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subparagraph (C).

''(H) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this subsection for any purpose other than the enforcement and administration of the immigration laws, the Social Security Act, or any provision of Federal criminal law.

''(I) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this subparagraph.

''(J) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility verification mechanism established under this paragraph.''.

(b) REPEAL OF PROVISION RELATING TO EVALUATIONS AND CHANGES IN EMPLOYMENT VERIFICATION.—Section 274A(d) (8 U.S.C. 1324a(d)) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 412. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting ''(A)'' after ''DEFENSE.—'', and by adding at the end the following:

''(B) FAILURE TO SEEK AND OBTAIN VERIFICATION.—In the case of a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, the following requirements apply:

''(i) FAILURE TO SEEK VERIFICATION.—

''(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(7), seeking verification of the identity and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring, the date specified in subsection (b)(8)(B) for previously hired individuals, or before the recruiting or referring commences, the defense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

''(II) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

''(ii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection (b)(7)(B) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.'';

(2) by amending subparagraph (A) of subsection (b)(1) to read as follows:

''(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Secretary by regulation, that it has verified that the individual is not an unauthorized alien by—

''(i) obtaining from the individual the individual's social security account number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under paragraph (2), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

''(ii)(I) examining a document described in subparagraph (B); or

''(II) examining a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and, if the document bears an expiration date, that expiration date has not elapsed. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and is sufficient to meet the first sentence of this paragraph, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce another document.'';

(3) in subsection (b)(1)(D)—

(A) in clause (i), by striking ''or such other personal identification information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section''; and

(B) in clause (ii), by inserting before the period ''and that contains a photograph of the individual'';

(4) in subsection (b)(2), by adding at the end the following: ''The individual must also provide that individual's social security account number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under this paragraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.'';

(5) by amending paragraph (3) of subsection (b) to read as follows:

''(3) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

''(A) IN GENERAL.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity shall—

''(i) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual or the date of the completion of verification of a previously hired individual and ending—

''(I) in the case of the recruiting or referral of an individual, three years after the date of the recruiting or referral;

''(II) in the case of the hiring of an individual, the later of—

''(aa) three years after the date of such hiring; or

''(bb) one year after the date the individual's employment is terminated; and

''(III) in the case of the verification of a previously hired individual, the later of—

''(aa) three years after the date of the completion of verification; or

''(bb) one year after the date the individual's employment is terminated;

''(ii) make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring or in the case of previously hired individuals, the date specified in subsection (b)(8)(B), or before the recruiting or referring commences; and

''(iii) not commence recruitment or referral of the individual until the person or entity receives verification under subparagraph (B)(i) or (B)(iii).

''(B) VERIFICATION.—

''(i) VERIFICATION RECEIVED.—If the person or other entity receives an appropriate verification of an individual's identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final verification of such identity and work eligibility of the individual.

''(ii) TENTATIVE NONVERIFICATION RECEIVED.—If the person or other entity receives a tentative nonverification of an individual's identity or work eligibility under the verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the nonverification within the time period specified, the nonverification shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a tentative nonverification. If the individual does contest the nonverification, the individual shall utilize the process for secondary verification provided under paragraph (7). The nonverification will remain tentative until a final verification or nonverification is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonverification becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(iii) FINAL VERIFICATION OR NONVERIFICATION RECEIVED.—If a final verification or nonverification is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a verification or nonverification of identity and work eligibility of the individual.

''(iv) EXTENSION OF TIME.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

''(v) CONSEQUENCES OF NONVERIFICATION.—

''(I) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonverification regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

''(II) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under subclause (I), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

''(vi) CONTINUED EMPLOYMENT AFTER FINAL NONVERIFICATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonverification, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).'';

(6) by amending paragraph (4) of subsection (b) to read as follows:

''(4) COPYING AND RECORD KEEPING OF DOCUMENTATION REQUIRED.—

''(A) LAWFUL EMPLOYMENT DOCUMENTS.—Notwithstanding any other provision of law, a person or entity shall retain a copy of each document presented by an individual to the individual or entity pursuant to this subsection. Such copy may only be used (except as otherwise permitted under law) for the purposes of complying with the requirements of this subsection and shall be maintained for a time period to be determined by the Secretary of Homeland Security.

''(B) SOCIAL SECURITY CORRESPONDENCE.—A person or entity shall maintain records of correspondence from the Commissioner of Social Security regarding name and number mismatches or no-matches and the steps taken to resolve such mismatches or no-matches. The employer shall maintain such records for a time period to be determined by the Secretary.

''(C) OTHER DOCUMENTS.—The Secretary may, by regulation, require additional documents to be copied and maintained.''; and

(7) by amending paragraph (5) of subsection (b) to read as follows:

''(5) USE OF ATTESTATION FORM.—A form designated by the Secretary to be used for compliance with this subsection, and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter or of title 18, United States Code.''.

(b) INVESTIGATION NOT A WARRANTLESS ENTRY.—Section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) is amended by adding at the end the following: ''An investigation authorized pursuant to subsections (b)(7) or (e) of section 274A is not a warrantless entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 413. EXPANSION OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM TO PREVIOUSLY HIRED INDIVIDUALS AND RECRUITING AND REFERRING.

(a) APPLICATION TO RECRUITING AND REFERRING.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(1)(A), by striking ''for a fee'';

(2) in subsection (a)(1), by amending subparagraph (B) to read as follows:

''(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements of subsection (b).'';

(3) in subsection (a)(2) by striking ''after hiring an alien for employment in accordance with paragraph (1),'' and inserting ''after complying with paragraph (1),''; and

(4) in subsection (a)(3), as amended by section 702, is further amended by striking ''hiring,'' and inserting ''hiring, employing,'' each place it appears.

(b) EMPLOYMENT ELIGIBILITY VERIFICATION FOR PREVIOUSLY HIRED INDIVIDUALS.—Section 274A(b) of such Act (8 U.S.C. 1324a(b)), as amended by section 411(a), is amended by adding at the end the following new paragraph:

''(8) USE OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM FOR PREVIOUSLY HIRED INDIVIDUALS.—

''(A) ON A VOLUNTARY BASIS.—Beginning on the date that is 2 years after the date of the enactment of the Employment Security Act of 2006 and until the date specified in subparagraph (B)(iii), a person or entity may make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of any individual employed by the person or entity, as long as it is done on a nondiscriminatory basis.

''(B) ON A MANDATORY BASIS.—

''(i) INITIAL COMPLIANCE.—A person or entity described in clause (ii) shall make an inquiry as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity who have not been previously subject to an inquiry by the person or entity by the date 3 years after the date of the enactment of the Employment Security Act of 2006.

''(ii) PERSON OR ENTITY COVERED.—A person or entity is described in this clause if it is a Federal, State, or local governmental body (including the Armed Forces of the United States), or if it employs individuals working in a location that is a Federal, State, or local government building, a military base, a nuclear energy site, a weapon site, an airport, or that contains critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))), but only to the extent of such individuals.

''(iii) SUBSEQUENT COMPLIANCE.—All persons and entities other than a person or entity described in clause (ii) shall make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of all individuals employed by the person or entity that have not been previously subject to an inquiry by the person or entity by the date 6 years after the date of the enactment of the Employment Security Act of 2006.''.

SEC. 414. EXTENSION OF PREEMPTION TO REQUIRED CONSTRUCTION OF DAY LABORER SHELTERS.

Paragraph 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended—

(1) by striking ''imposing'', and inserting a dash and ''(A) imposing'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) Requiring as a condition of conducting, continuing, or expanding a business that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.''.

SEC. 415. BASIC PILOT PROGRAM.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking ''at the end of the 11-year period beginning on the first day the pilot program is in effect'' and inserting ''2 years after the date of the enactment of the Employment Security Act of 2006''.

SEC. 416. PROTECTION FOR UNITED STATES WORKERS AND INDIVIDUALS REPORTING IMMIGRATION LAW VIOLATIONS.

Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) PROTECTION OF RIGHT TO REPORT.—Notwithstanding any other provision of law, the rights protected by this subsection include the right of any individual to report a violation or suspected violation of any immigration law to the Secretary of Homeland Security or a law enforcement agency.''.

SEC. 417. PENALTIES.

(a) CIVIL AND CRIMINAL PENALTIES.—Section 274A(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(4)) is amended to read:

''(4) CIVIL AND CRIMINAL PENALTIES.—

''(A) KNOWINGLY HIRING UNAUTHORIZED ALIENS.—Any person or entity that violates subsection (a)(1)(A) shall—

''(i) in the case of a first offense, be fined $10,000 for each unauthorized alien;

''(ii) (in the case of a second offense, be fined $50,000 for each unauthorized alien; and

''(iii) in the case of a third or subsequent offense, be fined in accordance with title 18, United States Code, imprisoned not less than 1 year and not more than 3 years, or both.

''(B) CONTINUING EMPLOYMENT OF UNAUTHORIZED ALIENS.—Any person or entity that violates subsection (a)(2) shall be fined in accordance of title 18, United States Code, imprisoned not less than 1 year and not more than 3 years, or both.''.

(b) PAPERWORK OR VERIFICATION VIOLATIONS.—Section 274A(e)(5) of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read:

''(5) PAPERWORK OR VERIFICATION VIOLATIONS.—Any person or entity that violates subsection (a)(1)(B) shall—

''(A) in the case of a first offense, be fined $1,000 for each violation;

''(B) in the case of a second violation, be fined $5,000 for each violation; and

''(C) in the case of a third and subsequent violation, be fined $10,000 for each such violation.''.

(c) GOVERNMENT CONTRACTS.—Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

''(10) GOVERNMENT CONTRACTS.—

''(A) EMPLOYERS.—

''(i) IN GENERAL.—If the Secretary of Homeland Secretary determines that a person or entity that employs an alien is a repeat violator of this section or is convicted of a crime under this section, such person or entity shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary of Homeland Security or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a 2-year period.

''(ii) WAIVER.—The Administrator of General Services, in consultation with the Secretary of Homeland Security and Attorney General, may waive the application of this subparagraph or may limit the duration or scope of the debarment imposed under it.

''(iii) PROHIBITION ON JUDICIAL REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

''(B) CONTRACTORS AND RECIPIENTS.—

''(i) IN GENERAL.—If the Secretary of Homeland Security determines that a person or entity that employs an alien and holds a Federal contract, grant, or cooperative agreement is a repeat violator of this section or is convicted of a crime under this section, such person or entity shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. Prior to debarring the employer, the Secretary of Homeland Security, in cooperation with the Administrator of General Services, shall advise the head of each agency holding such a contract, grant, or cooperative agreement with person or entity of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(ii) WAIVER.—After consideration of the views of the head of each such agency, the Secretary of Homeland Security may, in lieu of debarring the employer from the receipt of new a Federal contract, grant, or cooperative agreement for a period of 2 years, waive application of this subparagraph, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation.

''(iii) PROHIBITION ON REVIEW.—Any proposed debarment that is predicated on an administrative determination of liability for civil penalty by the Secretary of Homeland Security or the Attorney General may not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation may not be reviewed by any court.

''(C) CAUSE FOR SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this paragraph shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(D) APPLICABILITY.—The provisions of this paragraph shall apply to any Federal contract, grant, or cooperative agreement that is effective on or after the date of the enactment of the Employment Security Act of 2006.''.

(d) CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS.—Section 274A(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(f)(1)) is amended to read as follows:

''(1) CRIMINAL PENALTY.—Any person or entity engages in a pattern or practice of violations of subsection (a)(1) or (2) shall be fined not more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than 3 years and not more than 5 years, or both, notwithstanding the provisions of any other Federal law relating to fine levels. The amount of the gross proceeds of such violation, and any property traceable to such proceeds, shall be seized and subject to forfeiture under title 18, United States Code.''.

(e) AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY.—Subsections (b)(2) and (f)(2) of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) are amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

Subtitle C—Work Eligibility Verification Reform in the Social Security Administration

SEC. 421. VERIFICATION RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.

The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, however in no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

SEC. 422. NOTIFICATION BY COMMISSIONER OF FAILURE TO CORRECT SOCIAL SECURITY INFORMATION.

The Commissioner of Social Security shall promptly notify the Secretary of Homeland Security of the failure of any individual to provide, upon any request of the Commissioner made pursuant to section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), evidence necessary, under such section to—

(1) establish the age, citizenship, immigration or work eligibility status of the individual;

(2) establish such individual's true identity; or

(3) determine which (if any) social security account number has previously been assigned to such individual.

SEC. 423. RESTRICTION ON ACCESS AND USE.

Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraph:

''(I)(i) Access to any information contained in the Employment Eligibility Verification System established section 274A(b)(7) of the Immigration and Nationality Act, shall be prohibited for any purpose other than the administration or enforcement of Federal immigration, social security, and tax laws, any provision of title 18, United States Code, or as otherwise authorized by Federal law.

''(ii) No person or entity may use the information in such Employment Eligibility Verification System for any purpose other than as permitted by Federal law.

''(iii) Whoever knowingly uses, discloses, publishes, or permits the unauthorized use of information in such Employment Eligibility Verification System in violation of clause (i) or (ii) shall be fined not more than $10,000 per individual injured by such violation. The Commissioner of Social Security shall establish procedure to ensure that 60 percent of any fine imposed under this clause is awarded to the individual injured by such violation.''.

SEC. 424. SHARING OF INFORMATION WITH THE COMMISSIONER OF INTERNAL REVENUE SERVICE.

Section 205(c)(2)(H) of the Social Security Act (42 U.S.C. 405(c)(2)(H)) is amended to read as follows:

''(H) The Commissioner of Social Security shall share with the Secretary of the Treasury—

''(i) the information obtained by the Commissioner pursuant to the second sentence of subparagraph (B)(ii) and to subparagraph (C)(ii) for the purpose of administering those sections of the Internal Revenue Code of 1986 that grant tax benefits based on support or residence of children; and

''(ii) information relating to the detection of wages or income from self-employment of unauthorized aliens (as defined by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a)), or the investigation of false statements or fraud by such persons incident to the administration of immigration, social security, or tax laws of the United States.

Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.''.

SEC. 425. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), as amended by section 423, is amended by adding at the end the following new subparagraph:

''(J) Upon the issuance of a social security account number under subparagraph (B) to any individual or the issuance of a Social Security card under subparagraph (G) to any individual, the Commissioner of social security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual's application for such number or such card as the Secretary of Homeland Security determines necessary and appropriate for administration of the immigration laws of the United States.''.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) FORMS AND PROCEDURES.—Section 264(f) of the Immigration and Nationality Act (8 U.S.C. 1304(f)) is amended to read as follows:

''(f) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Secretary of Homeland Security, Secretary of Labor and the Attorney General are authorized to require any individual to provide the individual's own social security account number for purposes of inclusion in any record of the individual maintained by any of any such Secretary or the Attorney General, or for inclusion on any application, document, or form provided under or required by the immigration laws.''.

(2) CENTRAL FILE.—Section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code) if earnings are reported on or after January 1, 1997, to the Commissioner of Social Security on a social security account number issued to an alien who is not authorized to work in the United States, the Commissioner shall provide the Secretary of Homeland Security with information regarding the name, date of birth, and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.

''(3) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where a social security account number does not match the name in the Social Security Administration record. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or modify these requirements as appropriate to identify those cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.

''(4) Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of an individual, as well as the name and address of the person reporting the earnings, in any case where the individual has more than one person reporting earnings for the individual during a single tax year and where a social security number was used with multiple names. The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws. The Secretary, in consultation with the Commissioner, may limit or modify these requirements as appropriate to identify those cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.

''(5)(A) The Commissioner of Social Security shall perform, at the request of the Secretary of Homeland Security, any search or manipulation of records held by the Commissioner, so long as the Secretary certifies that the purpose of the search or manipulation is to obtain information likely to assist in identifying individuals (and their employers) who—

''(i) are using false names or social security numbers; who are sharing among multiple individuals a single valid name and social security number;

''(ii) are using the social security number of persons who are deceased, too young to work or not authorized to work; or

''(iii) are otherwise engaged in a violation of the immigration laws.

''(B) The Commissioner shall provide the results of such search or manipulation to the Secretary, notwithstanding any other provision of law (including section 6103 of title 26, United States Code). The Secretary shall transfer to the Commissioner the funds necessary to cover the additional cost directly incurred by the Commissioner in carrying out the searches or manipulations reported by the Secretary.''.

Subtitle D—Sharing of Information

SEC. 431. SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY AND THE COMMISSIONER OF SOCIAL SECURITY.

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE OF INFORMATION RELATING TO VIOLATIONS OF FEDERAL IMMIGRATION LAW.—

''(A) Upon receipt by the Secretary of the Treasury of a written request, by the Secretary of Homeland Security or Commissioner of Social Security, the Secretary of the Treasury shall disclose return information to officers and employees of the Department of Homeland Security and the Social Security Administration who are personally and directly engaged in—

''(i) preparation for any judicial or administrative civil or criminal enforcement proceeding against an alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the adjudication of any application for a change in immigration status or other benefit by such alien, or

''(ii) preparation for a civil or criminal enforcement proceeding against a citizen or national of the United States under section 274, 274A, or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, or 1324c), or

''(iii) any investigation which may result in the proceedings enumerated in clauses (i) and (ii) above.

''(B) LIMITATION ON USE AND RETENTION OF TAX RETURN INFORMATION.—

''(i) Information disclosed under this paragraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

''(ii) Should the proceeding for which such information has been disclosed not commence within 3 years after the date on which the information has been disclosed by the Secretary, the information shall be returned to the Secretary in its entirety, and shall not be retained in any form by the requestor, unless the taxpayer is notified in writing as to the information that has been retained.''.

(b) AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end the following new subsection:

''(i) NO-MATCH NOTICE.—

''(1) NO-MATCH NOTICE DEFINED.—In this subsection, the term 'no-match notice' means a written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W-2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(2) PROVISION OF INFORMATION.—

''(A) REQUIREMENT TO PROVIDE.—Notwithstanding any other provision of law (including section 6103 of title 26, United States Code), the Commissioner shall provide the Secretary of Homeland Security with information relating to employers who have received no-match notices and, upon request, with such additional information as the Secretary certifies is necessary to administer or enforce the immigration laws.

''(B) FORM OF INFORMATION.—The information shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.

''(C) USE OF INFORMATION.—A no-match notice received by the Secretary from the Commissioner may be used as evidence in any civil or criminal proceeding.

''(3) OTHER AUTHORITIES.—

''(A) VERIFICATION REQUIREMENT.—The Secretary, in consultation with the Commissioner, is authorized to establish by regulation requirements for verifying the identity and work authorization of an employee who is the subject of a no-match notice.

''(B) PENALTIES.—The Secretary is authorized to establish by regulation penalties for failure to comply with this subsection.

''(C) LIMITATION ON AUTHORITIES.—This authority in this subsection is provided in aid of the Secretary's authority to administer and enforce the immigration laws, and nothing in this subsection shall be construed to authorize the Secretary to establish any regulation regarding the administration or enforcement of laws otherwise relating to taxation or the Social Security system.''.

Subtitle E—Identification Document Integrity

SEC. 441. CONSULAR IDENTIFICATION DOCUMENTS.

(a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOCUMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), for purposes of personal identification, no agency, commission, entity, or agent of the executive or legislative branches of the Federal Government may accept, acknowledge, recognize, or rely on any identification document issued by the government of a foreign country, unless otherwise mandated by Federal law.

(2) AGENT DEFINED.—In this section, the term ''agent'' shall include the following:

(A) A Federal contractor or grantee.

(B) An institution or entity exempted from Federal income taxation under the Internal Revenue Code of 1986.

(C) A financial institution required to ask for identification under section 5318(l) of title 31, United States Code.

(3) EXCEPTIONS.—

(A) IN GENERAL.—An individual who is not a citizen or national of the United States may present for purposes of personal identification an official identification document issued by the government of a foreign country or other foreign identification document recognized pursuant to a treaty entered into by the United States, if—

(i) such individual simultaneously presents valid verifiable documentation of lawful presence in the United States issued by the appropriate agency of the Federal Government;

(ii) reporting a violation of law or seeking government assistance in an emergency;

(iii) the document presented is a passport issued to a citizen or national of a country that participates in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) by the government of such country; or

(iv) such use is expressly permitted another provision of Federal law.

(B) NONAPPLICATION.—The provisions of paragraph (1) shall not apply to—

(i) inspections of alien applicants for admission to the United States; or

(ii) verification of personal identification of persons outside the United States.

(4) LISTING OF ACCEPTABLE DOCUMENTS.—The Secretary of Homeland Security shall issue and maintain an updated public listing, compiled in consultation with the Secretary of State, and including sample facsimiles, of all acceptable Federal documents that satisfy the requirements of paragraph (3)(A).

(b) ESTABLISHMENT OF PERSONAL IDENTITY.—Section 274C(a) of the Immigration and Nationality Act (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting a comma and ''or''; and

(3) by inserting after paragraph (6) the following new paragraph:

''(7) to use to establish personal identity, before any agent of the Federal Government, or before any agency of the Federal Government or of a State or any political subdivision therein, a travel or identification document issued by a foreign government that is not accepted by the Secretary of Homeland Security to establish personal identity for purposes of admission to the United States at a port of entry, except—

''(A) in the case of a person who is not a citizen of the United States—

''(i) the person simultaneously presents valid verifiable documentation of lawful presence in the United States issued by an agency of the Federal Government;

''(ii) the person is reporting a violation of law or seeking government assistance in an emergency; or

''(iii) such use is expressly permitted by Federal law.''.

SEC. 442. MACHINE-READABLE TAMPER-RESISTANT IMMIGRATION DOCUMENTS.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL, ENTRY, AND EVIDENCE OF STATUS DOCUMENTS**'';

(2) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(B) by striking ''visas and'' each place it appears and inserting ''visas, evidence of status, and'';

(3) by striking subsection (d) and inserting the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of immigrant, nonimmigrant, parole, asylee, or refugee status, shall be machine-readable, tamper-resistant, and incorporate a biometric identifier to allow the Secretary of Homeland Security to electronically verify the identity and status of the alien.

''(e) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursements to international and domestic standards organizations.

''(2) FEE.—During any fiscal year for which appropriations sufficient to issue documents described in subsection (d) are not made pursuant to law, the Secretary of Homeland Security is authorized to implement and collect a fee sufficient to cover the direct cost of issuance of such document from the alien to whom the document will be issued.

''(3) EXCEPTION.—The fee described in paragraph (2) may not be levied against nationals of a foreign country if the Secretary of Homeland has determined that the total estimated population of such country who are unlawfully present in the United States does not exceed 3,000 aliens.''.

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 116 Stat. 543) is amended by striking the item relating to section 303 and inserting the following:

''Sec. 303. Machine-readable, tamper-resistant travel, entry, and evidence of status documents.''.

Subtitle F—Effective Date; Authorization of Appropriations

SEC. 451. EFFECTIVE DATE.

Except as otherwise specially provided in this Act, the provisions of this title shall take effect not later than 45 days after the date of the enactment of this Act.

SEC. 452. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.

TITLE V—PENALTIES AND ENFORCEMENT

Subtitle A—Criminal and Civil Penalties

SEC. 501. ALIEN SMUGGLING AND RELATED OFFENSES.

(a) IN GENERAL.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Whoever—

''(A) assists, encourages, directs, or induces a person to come to or enter the United States, or to attempt to come to or enter the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to or enter the United States;

''(B) assists, encourages, directs, or induces a person to come to or enter the United States at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, regardless of whether such person has official permission or lawful authority to be in the United States, knowing or in reckless disregard of the fact that such person is an alien;

''(C) assists, encourages, directs, or induces a person to reside in or remain in the United States, or to attempt to reside in or remain in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in or remain in the United States;

''(D) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, where the transportation or movement will aid or further in any manner the person's illegal entry into or illegal presence in the United States;

''(E) harbors, conceals, or shields from detection a person in the United States knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States;

''(F) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from one country to another or on the high seas, under circumstances in which the person is in fact seeking to enter the United States without official permission or lawful authority; or

''(G) conspires or attempts to commit any of the preceding acts,

shall be punished as provided in paragraph (2), regardless of any official action which may later be taken with respect to such alien.

''(2) CRIMINAL PENALTIES.—A person who violates the provisions of paragraph (1) shall—

''(A) except as provided in subparagraphs (D) through (H), in the case where the offense was not committed for commercial advantage, profit, or private financial gain, be imprisoned for not more than 5 years, or fined under title 18, United States Code, or both;

''(B) except as provided in subparagraphs (C) through (H), where the offense was committed for commercial advantage, profit, or private financial gain—

''(i) in the case of a first violation of this subparagraph, be imprisoned for not more than 20 years, or fined under title 18, United States Code, or both; and

''(ii) for any subsequent violation, be imprisoned for not less than 3 years nor more than 20 years, or fined under title 18, United States Code, or both;

''(C) in the case where the offense was committed for commercial advantage, profit, or private financial gain and involved 2 or more aliens other than the offender, be imprisoned for not less than 3 nor more than 20 years, or fined under title 18, United States Code, or both;

''(D) in the case where the offense furthers or aids the commission of any other offense against the United States or any State, which offense is punishable by imprisonment for more than 1 year, be imprisoned for not less than 5 nor more than 20 years, or fined under title 18, United States Code, or both;

''(E) in the case where any participant in the offense created a substantial risk of death or serious bodily injury to another person, including—

''(i) transporting a person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting a person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting or harboring a person in a crowded, dangerous, or inhumane manner,

be imprisoned not less than 5 nor more than 20 years, or fined under title 18, United States Code, or both;

''(F) in the case where the offense caused serious bodily injury (as defined in section 1365 of title 18, United States Code, including any conduct that would violate sections 2241 or 2242 of title 18, United States Code, if the conduct occurred in the special maritime and territorial jurisdiction of the United States) to any person, be imprisoned for not less than 7 nor more than 30 years, or fined under title 18, United States Code, or both;

''(G) in the case where the offense involved an alien who the offender knew or had reason to believe was an alien—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in such terrorist activity,

be imprisoned for not less than 10 nor more than 30 years, or fined under title 18, United States Code, or both; and

''(H) in the case where the offense caused or resulted in the death of any person, be punished by death or imprisoned for not less than 10 years, or any term of years, or for life, or fined under title 18, United States Code, or both.

''(3) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) IN GENERAL.—Any person who, during any 12-month period, knowingly hires for

employment at least 10 individuals with actual knowledge that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

''(2) ALIEN DESCRIBED.—A alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3)); and

''(B) has been brought into the United States in violation of subsection (a).

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any property, real or personal, that has been used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

''(e) ADMISSIBILITY OF EVIDENCE.—

''(1) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—Notwithstanding any provision of the Federal Rules of Evidence, in determining whether a violation of subsection (a) has occurred, any of the following shall be prima facie evidence that an alien involved in the violation lacks lawful authority to come to, enter, reside, remain, or be in the United States or that such alien had come to, entered, resided, remained or been present in the United States in violation of law:

''(A) Any order, finding, or determination concerning the alien's status or lack thereof made by a federal judge or administrative adjudicator (including an immigration judge or an immigration officer) during any judicial or administrative proceeding authorized under the immigration laws or regulations prescribed thereunder.

''(B) An official record of the Department of Homeland Security, Department of Justice, or the Department of State concerning the alien's status or lack thereof.

''(C) Testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack thereof.

''(2) VIDEOTAPED TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination at the deposition and the deposition otherwise complies with the Federal Rules of Evidence.

''(f) DEFINITIONS.—For purposes of this section:

''(1) The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or the regulations prescribed thereunder. Such term does not include any such authority secured by fraud or otherwise obtained in violation of law, nor does it include authority that has been sought but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside, remain, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(2) The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present, or any country from which or to which the alien is traveling or moving.''.

(b) CLERICAL AMENDMENT.—The item relating to section 274 in the table of contents of such Act is amended to read as follows:

''Sec. 274. Alien smuggling and related offenses.''.

SEC. 502. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end a new section as follows:

''§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person—

''(1) attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint; or

''(2) intentionally violates an arrival, reporting, entry, or clearance requirement of—

''(A) section 107 of the Federal Plant Pest Act (7 U.S.C. 105ff);

''(B) section 10 of the Act of August 20, 1912 (7 U.S.C. 164(a));

''(C) section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2806);

''(D) the Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213);

''(E) section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, and 1459);

''(F) section 10 of the Act of August 20, 1890 (21 U.S.C. 105);

''(G) section 2 of the Act of February 2, 1903 (21 U.S.C. 111);

''(H) section 4197 of the Revised Statutes (46 U.S.C. App. 91); or

''(I) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 5 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(b) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

SEC. 503. IMPROPER ENTRY BY, OR PRESENCE OF, ALIENS.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended—

(1) in the section heading, by inserting ''**UNLAWFUL PRESENCE**;'' after ''**IMPROPER TIME OR PLACE;**'';

(2) in subsection (a)—

(A) by striking ''Any alien'' and inserting ''Except as provided in subsection (b), any alien'';

(B) by striking ''or'' before (3);

(C) by inserting after ''concealment of a material fact,'' the following: ''or (4) is otherwise present in the United States in violation of the immigration laws or the regulations prescribed thereunder,''; and

(D) by striking ''6 months'' and inserting ''one year'';

(3) by amending subsection (c) to read as follows:

''(c)(1) Whoever—

''(A) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(B) knowingly misrepresents the existence or circumstances of a marriage—

''(i) in an application or document arising under or authorized by the immigration laws of the United States or the regulations prescribed thereunder, or

''(ii) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals);

shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

''(2) Whoever—

''(A) knowingly enters into two or more marriages for the purpose of evading any provision of the immigration laws; or

''(B) knowingly arranges, supports, or facilitates two or more marriages designed or intended to evade any provision of the immigration laws;

shall be fined under title 18, United States Code, imprisoned not less than 2 years nor more than 20 years, or both.

''(3) An offense under this subsection continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(4) For purposes of this section, the term 'proceeding' includes an adjudication, interview, hearing, or review.''

(4) in subsection (d)—

(A) by striking ''5 years'' and inserting ''10 years'';

(B) by adding at the end the following: ''An offense under this subsection continues until the fraudulent nature of the commercial enterprise is discovered by an immigration officer.''; and

(5) by adding at the end the following new subsections:

''(e)(1) Any alien described in paragraph (2)—

''(A) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both, if the offense described in such paragraph was committed subsequent to a conviction or convictions for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony;

''(B) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 30 months or more, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

''(C) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 60 months or more, shall be fined under title 18, United States Code, imprisoned not more than 20 years, or both.

''(2) An alien described in this paragraph is an alien who—

''(A) enters or attempts to enter the United States at any time or place other than as designated by immigration officers;

''(B) eludes examination or inspection by immigration officers;

''(C) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact; or

''(D) is otherwise present in the United States in violation of the immigration laws or the regulations prescribed thereunder.

''(3) The prior convictions in subparagraph (A), (B), or (C) of paragraph (1) are elements of those crimes and the penalties in those subparagraphs shall apply only in cases in which the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admissible evidence may be used to show that the prior conviction is a qualifying crime, and the criminal trial for a violation of this section shall not be bifurcated.

''(4) An offense under subsection (a) or paragraph (1) of this subsection continues until the alien is discovered within the United States by immigration officers.

''(f) For purposes of this section, the term 'attempts to enter' refers to the general intent of the alien to enter the United States and does not refer to the intent of the alien to violate the law.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) may be construed to limit the authority of any State or political subdivision therein to enforce criminal trespass laws against aliens whom a law enforcement agency has verified to be present in the United States in violation of this Act or the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 504. FEES AND EMPLOYER COMPLIANCE FUND.

(a) EQUAL ACCESS TO JUSTICE FEES.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) FEES AND COSTS.—The provisions of section 2412, title 28, United States Code, shall not apply to civil actions arising under or related to the immigration laws, including any action under—

''(1) any provision of title 5, United States Code;

''(2) any application for a writ of habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision; or

''(3) any action under section 1361 or 1651 of title 28, United States Code, that involves or is related to the enforcement or administration of the immigration laws with respect to any person or entity.''.

(b) EMPLOYER COMPLIANCE FUND.—

(1) ESTABLISHMENT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(x) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund')

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) USE OF FUNDS.—Amounts deposited into the Fund shall be used by the Secretary of Homeland Security for the purposes of enhancing employer compliance with section 274A, compliance training, and outreach.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

(2) CONFORMING AMENDMENT.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 431(b), is further amended by adding at the end the following new subsection:

''(j) DEPOSITS OF AMOUNTS RECEIVED.—Amounts collected under this section shall be deposited by the Secretary of Homeland Security into the Employer Compliance Fund established under section 286(x).''.

SEC. 505. REENTRY OF REMOVED ALIEN.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking all that follows ''United States'' the first place it appears and inserting a comma;

(B) in the matter following paragraph (2), by striking ''imprisoned not more than 2 years,'' and inserting ''imprisoned for a term of not less than 1 year and not more than 2 years,''; and

(C) by adding at the end the following: ''It shall be an affirmative defense to an offense under this subsection that (A) prior to an alien's reembarkation at a place outside the United States or an alien's application for admission from foreign contiguous territory, the Secretary of Homeland Security has expressly consented to the alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, such alien was not required to obtain such advance consent under this Act or any prior Act.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''imprisoned not more than 10 years,'' and insert ''imprisoned for a term of not less than 5 years and not more than 10 years,'';

(B) in paragraph (2), by striking ''imprisoned not more than 20 years,'' and insert ''imprisoned for a term of not less than 10 years and not more than 20 years,'';

(C) in paragraph (3), by striking ''. or'' and inserting ''; or'';

(D) in paragraph (4), by striking ''imprisoned for not more than 10 years,'' and insert ''imprisoned for a term of not less than 5 years and not more than 10 years,''; and

(E) by adding at the end the following: ''The prior convictions in paragraphs (1) and (2) are elements of enhanced crimes and the penalties under such paragraphs shall apply only where the conviction (or convictions) that form the basis for the additional penalty are alleged in the indictment or information and are proven beyond a reasonable doubt at trial or admitted by the defendant in pleading guilty. Any admissible evidence may be used to show that the prior conviction is a qualifying crime and the criminal trial for a violation of either such paragraph shall not be bifurcated.'';

(3) in subsections (b)(3), (b)(4), and (c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears;

(4) in subsection (c)—

(A) by inserting ''(as in effect before the effective date of the amendments made by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-597)), or removed under section 241(a)(4),'' after ''242(h)(2)'';

(B) by striking ''(unless the Attorney General has expressly consented to such alien's reentry)'';

(C) by inserting ''or removal'' after ''time of deportation''; and

(D) by inserting ''or removed'' after ''reentry of deported'';

(5) in subsection (d)—

(A) in the matter before paragraph (1), by striking ''deportation order'' and inserting ''deportation or removal order''; and

(B) in paragraph (2), by inserting ''or removal'' after ''deportation''; and

(6) by adding at the end the following new subsection:

''(e) For purposes of this section, the term 'attempts to enter' refers to the general intent of the alien to enter the United States and does not refer to the intent of the alien to violate the law.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to criminal proceedings involving aliens who enter, attempt to enter, or are found in the United States, after such date.

SEC. 506. CIVIL AND CRIMINAL PENALTIES FOR DOCUMENT FRAUD, BENEFIT FRAUD, AND FALSE CLAIMS OF CITIZENSHIP.

(a) CIVIL PENALTIES FOR DOCUMENT FRAUD.—Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended—

(1) in subparagraph (A), by striking ''$250 and not more than $2,000'' and inserting ''$500 and not more than $4,000''; and

(2) in subparagraph (B), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000''.

(b) FRAUD AND FALSE STATEMENTS.—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1015, by striking ''not more than 5 years'' and inserting ''not more than 10 years''; and

(2) in section 1028(b)—

(A) in paragraph (1), by striking ''15 years'' and inserting ''20 years'';

(B) in paragraph (2), by striking ''5 years'' and inserting ''6 years'';

(C) in paragraph (3), by striking ''20 years'' and inserting ''25 years''; and

(D) in paragraph (6), by striking ''one year'' and inserting ''2 years''.

(c) DOCUMENT FRAUD.—Section 1546 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''not more than 25 years'' and inserting ''not less than 25 years''

(B) by inserting ''and if the terrorism offense resulted in the death of any person, shall be punished by death or imprisoned for life,'' after ''section 2331 of this title)),'';

(C) by striking ''20 years'' and inserting ''imprisoned not more than 40 years'';

(D) by striking ''10 years'' and inserting ''imprisoned not more than 20 years''; and

(E) by striking ''15 years'' and inserting ''imprisoned not more than 25 years''; and

(2) in subsection (b), by striking ''5 years'' and inserting ''10 years''.

(d) CRIMES OF VIOLENCE.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 51 the following:

''CHAPTER 52—ILLEGAL ALIENS

''Sec.
''1131. Enhanced penalties for certain crimes committed by illegal aliens.

''§ 1131. Enhanced penalties for certain crimes committed by illegal aliens

''(a) Any alien unlawfully present in the United States, who commits, or conspires or attempts to commit, a crime of violence or a drug trafficking crime (as such terms are defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison.

''(b) If an alien who violates subsection (a) was previously ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime, the alien shall be sentenced to not less than 15 years in prison.

''(c) A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.''.

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following:

''52. Illegal aliens ..... 1131''.

SEC. 507. RENDERING INADMISSIBLE AND DEPORTABLE ALIENS PARTICIPATING IN CRIMINAL STREET GANGS.

(a) INADMISSIBLE.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(J) CRIMINAL STREET GANG PARTICIPATION.—

''(i) IN GENERAL.—Any alien is inadmissible if—

''(I) the alien has been removed under section 237(a)(2)(F); or

''(II) the consular officer or the Secretary of Homeland Security knows, or has reasonable ground to believe that the alien—

''(aa) is a member of a criminal street gang and has committed, conspired, or threatened to commit, or seeks to enter the United States to engage solely, principally, or incidentally in, a gang crime or any other unlawful activity; or

''(bb) is a member of a criminal street gang designated under section 219A.

''(ii) DEFINITIONS.—In this subparagraph:

''(I) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club organization or informal association of 5 or more persons who engage, or have engaged within the past 5 years in a continuing series of 3 or more gang crimes (1 of which is a crime of violence, as defined in section 16 of title 18, United States Code).

''(II) GANG CRIME.—The term 'gang crime' means conduct constituting any Federal or State crime, punishable by imprisonment for 1 year or more, in any of the following categories:

''(aa) A crime of violence (as defined in section 16 of title 18, United States Code).

''(bb) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

''(cc) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(dd) Any conduct punishable under section 844 of title 18, United States Code (relating to explosive materials), subsection (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of such title) or is a serious drug offense (as defined in section 924(e)(2)(A)), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 of such title (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 of such title (relating to penalties), section 930 of such title (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 of such title (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 of such title (relating to fraud and related activity in connection with identification documents or access devices), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property).

''(ee) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) of this Act.''.

(b) DEPORTABLE.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) CRIMINAL STREET GANG PARTICIPATION.—

''(i) IN GENERAL.—An alien is deportable if the alien—

''(I) is a member of a criminal street gang and is convicted of committing, or conspiring, threatening, or attempting to commit, a gang crime; or

''(II) is determined by the Secretary of Homeland Security to be a member of a criminal street gang designated under section 219A.

''(ii) DEFINITIONS.—For purposes of this subparagraph, the terms 'criminal street gang' and 'gang crime' have the meaning given such terms in section 212(a)(2)(J)(ii).''.

(c) DESIGNATION OF CRIMINAL STREET GANGS.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

''SEC. 219A. DESIGNATION OF CRIMINAL STREET GANGS.

''(a) DESIGNATION.—

''(1) IN GENERAL.—The Attorney General is authorized to designate a group or association as a criminal street gang in accordance with this subsection if the Attorney General finds that the group or association meets the criteria described in section 212(a)(2)(J)(ii)(I).

''(2) PROCEDURE.—

''(A) NOTICE.—

''(i) TO CONGRESSIONAL LEADERS.—Seven days before making a designation under this subsection, the Attorney General shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a group or association under this subsection, together with the findings made under paragraph (1) with respect to that group or association, and the factual basis therefore.

''(ii) PUBLICATION IN FEDERAL REGISTER.—The Attorney General shall publish the designation in the Federal Register 7 days after providing the notification under clause (i).

''(B) EFFECT OF DESIGNATION.—A designation under this subsection shall take effect upon publication under subparagraph (A)(ii).

''(3) RECORD.—In making a designation under this subsection, the Attorney General shall create an administrative record.

''(4) PERIOD OF DESIGNATION.—

''(A) IN GENERAL.—A designation under this subsection shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside pursuant to subsection (b).

''(B) REVIEW OF DESIGNATION UPON PETITION.—

''(i) IN GENERAL.—The Attorney General shall review the designation of a criminal street gang under the procedures set forth in clauses (iii) and (iv) if the designated gang or association files a petition for revocation within the petition period described in clause (ii).

''(ii) PETITION PERIOD.—For purposes of clause (i)—

''(I) if the designated gang or association has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

''(II) if the designated gang or association has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

''(iii) PROCEDURES.—Any criminal street gang that submits a petition for revocation under this subparagraph shall provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the gang is warranted.

''(iv) DETERMINATION.—

''(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Attorney General shall make a determination as to such revocation.

''(II) PUBLICATION OF DETERMINATION.—A determination made by the Attorney General under this clause shall be published in the Federal Register.

''(III) PROCEDURES.—Any revocation by the Attorney General shall be made in accordance with paragraph (6).

''(C) OTHER REVIEW OF DESIGNATION.—

''(i) IN GENERAL.—If in a 4-year period no review has taken place under subparagraph (B), the Attorney General shall review the designation of the criminal street gang in order to determine whether such designation should be revoked pursuant to paragraph (6).

''(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Attorney General. The results of such review and the applicable procedures shall not be reviewable in any court.

''(iii) PUBLICATION OF RESULTS OF REVIEW.—The Attorney General shall publish any determination made pursuant to this subparagraph in the Federal Register.

''(5) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

''(A) IN GENERAL.—The Attorney General may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (b) and (c) of paragraph (4) if the Attorney General finds that—

''(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation; or

''(ii) the national security of the United States warrants a revocation.

''(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

''(6) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

''(7) USE OF DESIGNATION IN HEARING.—If a designation under this subsection has become effective under paragraph (2)(B), an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any hearing.

''(b) JUDICIAL REVIEW OF DESIGNATION.—

''(1) IN GENERAL.—Not later than 60 days after publication of the designation in the Federal Register, a group or association designated as a criminal street gang may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

''(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record.

''(3) SCOPE OF REVIEW.—The court shall hold unlawful and set aside a designation the court finds to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

''(D) lacking substantial support in the administrative record taken as a whole; or

''(E) not in accord with the procedures required by law.

''(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

''(c) RELEVANT COMMITTEE DEFINED.—As used in this section, the term 'relevant committees' means the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 219 the following:

''Sec. 219A. Designation of criminal street gangs.''.

SEC. 508. MANDATORY DETENTION OF SUSPECTED CRIMINAL STREET GANG MEMBERS.

(a) IN GENERAL.—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(1) by inserting ''or 212(a)(2)(J)'' after ''212(a)(3)(B)''; and

(2) by inserting ''or 237(a)(2)(F)'' before ''237(a)(4)(B)''.

(b) ANNUAL REPORT.—Not later than March 1 2007, and annually thereafter, the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the number of aliens detained under the amendments made by subsection (a).

SEC. 509. INELIGIBILITY FOR ASYLUM AND PROTECTION FROM REMOVAL.

(a) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting ''who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) or who is'' after ''to an alien''.

(b) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) in clause (v), by striking ''or'' at the end;

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following:

''(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(F)(i) (relating to participation in criminal street gangs); or''.

(c) DENIAL OF REVIEW OF DETERMINATION OF INELIGIBILITY FOR TEMPORARY PROTECTED STATUS.—Section 244(c)(2) of such Act (8 U.S.C. 1254a(c)(2)) is amended by adding at the end the following:

''(C) LIMITATION ON JUDICIAL REVIEW.—There shall be no judicial review of any finding under subparagraph (B) that an alien is described in section 208(b)(2)(A)(vi).''.

SEC. 510. PENALTIES FOR MISUSING SOCIAL SECURITY NUMBERS OR FILING FALSE INFORMATION WITH SOCIAL SECURITY ADMINISTRATION.

(a) MISUSE OF SOCIAL SECURITY NUMBERS.—

(1) IN GENERAL.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(A) in paragraph (7), by adding after subparagraph (C) the following:

''(D) with intent to deceive, discloses, sells, or transfers his own social security account number, assigned to him by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 205(c)(2) to establish and maintain records), to any person; or'';

(B) in paragraph (8), by adding ''or'' at the end; and

(C) by inserting after paragraph (8) the following:

''(9) without lawful authority, offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number;

''(10) willfully acts or fails to act so as to cause a violation of section 205(c)(2)(C)(xii);

''(11) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof, or a person acting as an agent of such an agency or instrumentality (or an officer or employee thereof or a person acting as an agent thereof) in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C); or

''(12) being a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (x) or (xi) of section 205(c)(2)(C).''.

(2) EFFECTIVE DATES.—Paragraphs (7)(D) and (9) of section 208(a) of the Social Security Act, as added by paragraph (1), shall apply with respect to each violation occurring after the date of the enactment of this Act. Paragraphs (10), (11), and (12) of section 208(a) of such Act, as added by paragraph (1)(C), shall apply with respect to each violation occurring on or after the effective date of this Act.

(b) REPORT ON ENFORCEMENT EFFORTS CONCERNING EMPLOYERS FILING FALSE INFORMATION RETURNS.—The Commissioner of Internal Revenue and the Commissioner of Social Security shall submit to Congress an annual report on efforts taken to identify and enforce penalties against employers that file incorrect information returns.

SEC. 511. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) TERRORIST ACTIVITIES.—Section 212(a)(3)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)) is amended—

(1) by striking ''Subclause (VII) of clause (i)'' and inserting ''Subclause (IX) of clause (i)''; and

(2) in subclause (II), by striking ''consular officer or Attorney General'' and inserting ''consular officer, Attorney General, or Secretary of Homeland Security''.

(b) CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.—Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

Subtitle B—Detention, Removal, and Departure

SEC. 521. VOLUNTARY DEPARTURE REFORM.

(a) ENCOURAGING ALIENS TO DEPART VOLUNTARILY.—

(1) AUTHORITY.—Subsection (a) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(A) by amending paragraph (1) to read as follows:

''(1) IN LIEU OF REMOVAL PROCEEDINGS.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240, if the alien is not described in section 237(a)(2)(A)(iii) or section 237(a)(4).'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

''(2) PRIOR TO THE CONCLUSION OF REMOVAL PROCEEDINGS.—After removal proceedings under section 240 are initiated, the Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, prior to the conclusion of such proceedings before an immigration judge, if the alien is not described in section 237(a)(2)(A)(iii) or section 237(a)(4).''; and

(E) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)''.

(2) VOLUNTARY DEPARTURE PERIOD.—Such section is further amended—

(A) in subsection (a)(3), as redesignated by paragraph (1)(C)—

(i) by amending subparagraph (A) to read as follows:

''(A) IN LIEU OF REMOVAL.—Subject to subparagraph (C), permission to depart voluntarily under paragraph (1) shall not be valid for a period exceeding 90 days. The Secretary of Homeland Security may require an alien permitted to depart voluntarily under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) in subparagraph (B), by striking ''subparagraphs (C) and (D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(iii) in subparagraphs (C) and (D), by striking ''subparagraph (B)'' and inserting ''subparagraph (C)'' each place it appears;

(iv) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(v) by inserting after subparagraph (A) the following new subparagraph:

''(B) PRIOR TO THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to depart voluntarily under paragraph (2) shall not be valid for a period exceeding 60 days, and may be granted only after a finding that the alien has established that the alien has the means to depart the United States and intends to do so. An alien permitted to depart voluntarily under paragraph (2) must post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive posting of a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will be a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.''; and

(B) in subsection (b)(2), by striking ''60 days'' and inserting ''45 days''.

(3) VOLUNTARY DEPARTURE AGREEMENTS.—Subsection (c) of such section is amended to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure will be granted only as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security in the exercise of discretion may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) FAILURE TO COMPLY WITH AGREEMENT AND EFFECT OF FILING TIMELY APPEAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including a failure to timely post any required bond), the alien automatically becomes ineligible for the benefits of the agreement, subject to the penalties described in subsection (d), and subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b). However, if an alien agrees to voluntary departure but later files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences thereof, but the alien may not again be granted voluntary departure while the alien remains in the United States.''.

(4) ELIGIBILITY.—Subsection (e) of such section is amended to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to depart voluntarily under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) ADDITIONAL LIMITATIONS.—The Secretary of Homeland Security may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class or classes of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (a)(2) or (b) for any class or classes of aliens. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court may review any regulation issued under this subsection.''.

(b) AVOIDING DELAYS IN VOLUNTARY DEPARTURE.—

(1) ALIEN'S OBLIGATION TO DEPART WITHIN THE TIME ALLOWED.—Subsection (c) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(4) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary of Homeland Security in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.''.

(2) NO TOLLING.—Subsection (f) of such section is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and section 1361 and 1651 of such title, no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(c) PENALTIES FOR FAILURE TO DEPART VOLUNTARILY.—

(1) PENALTIES FOR FAILURE TO DEPART.—Subsection (d) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the following provisions apply:

''(1) CIVIL PENALTY.—

''(A) IN GENERAL.—The alien will be liable for a civil penalty of $3,000.

''(B) SPECIFICATION IN ORDER.—The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record.

''(C) COLLECTION.—If the Secretary of Homeland Security thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law.

''(D) INELIGIBILITY FOR BENEFITS.—An alien will be ineligible for any benefits under this title until any civil penalty under this subsection is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien will be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249.

''(3) REOPENING.—

''(A) IN GENERAL.—Subject to subparagraph (B), the alien will be ineligible to reopen a final order of removal which took effect upon the alien's failure to depart, or the alien's violation of the conditions for voluntary departure, during the period described in paragraph (2).

''(B) EXCEPTION.—Subparagraph (A) does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture.

''The order permitting the alien to depart voluntarily under this section shall inform the alien of the penalties under this subsection.''.

(2) IMPLEMENTATION OF EXISTING STATUTORY PENALTIES.—The Secretary of Homeland Security shall implement regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act, as amended by paragraph (1).

(d) VOLUNTARY DEPARTURE AGREEMENTS NEGOTIATED BY STATE OR LOCAL COURTS.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended by adding at the end the following new subsection:

''(g) VOLUNTARY DEPARTURE AGREEMENTS NEGOTIATED BY STATE OR LOCAL COURTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection at any time prior to the scheduling of the first merits hearing, in lieu of applying for another form of relief from removal, if the alien—

''(A) is deportable under section 237(a)(1);

''(B) is charged in a criminal proceeding in a State or local court for which conviction would subject the alien to deportation under paragraphs (2) through (6) of section 237(a); and

''(C) has accepted a plea bargain in such proceeding which stipulates that the alien, after consultation with counsel in such proceeding—

''(i) voluntarily waives application for another form of relief from removal;

''(ii) consents to transportation, under custody of a law enforcement officer of the State or local court, to an appropriate international port of entry where departure from the United States will occur;

''(iii) possesses or will promptly obtain travel documents issued by the foreign state of which the alien is a national or legal resident; and

''(iv) possesses the means to purchase transportation from the port of entry to the foreign state to which the alien will depart from the United States.

''(2) REVIEW.—The Secretary shall promptly review an application for voluntary departure for compliance with the requirements of paragraph (1). The Secretary shall permit voluntary departure under this subsection unless the State or local jurisdiction is informed in writing not later that 30 days after such application is filed, that the Secretary intends to seek removal under section 240.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the date of the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is entered on or after such date.

SEC. 522. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) IN GENERAL.—

(1) BONDS.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended to read as follows:

''(2) may, upon an express finding by an immigration judge, that the alien is not a flight risk and is not a threat to the United States, release the alien on a bond—

''(A) of not less than $5,000 release an alien; or

''(B) if the alien is a national of Canada or Mexico, of not less than $3,000; or.''.

(2) CONFORMING AMENDMENT.—Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by inserting ''or the Secretary of Homeland Security'' after the ''Attorney General'' each place it appears.

(3) REPORT.—Not later than 2 years after the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the number of aliens who are citizens or nationals of a country other than Canada or Mexico who are apprehended along an international land border of the United States between ports of entry.

(b) DETENTION OF ALIENS DELIVERED BY BONDSMEN.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following new paragraph:

''(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond. The obligor on the bond shall be deemed to have substantially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall take effect on the date of the enactment of this Act and the amendment made by subsection (b) shall apply to all immigration bonds posted before, on, or after such date.

SEC. 523. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien, whether or not admitted into the United States, was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) of such Act (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 524. REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.

Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

''(5) REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.—

''(A) REMOVAL.—The Secretary of Homeland Security shall remove an alien who is an applicant for admission (other than an admissible alien presenting himself or herself for inspection at a port of entry or an alien paroled into the United States under section 212(d)(5)), after having been, on or after September 30, 1996, excluded, deported, or removed, or having departed voluntarily under an order of exclusion, deportation, or removal.

''(B) JUDICIAL REVIEW.—The removal described in subparagraph (A) shall not require any proceeding before an immigration judge, and shall be under the prior order of exclusion, deportation, or removal, which is not subject to reopening or review. The alien is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of sections 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.''.

SEC. 525. CANCELLATION OF REMOVAL.

Section 240A(c) of the Immigration and Nationality Act (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

''(7) An alien who is inadmissible under section 212(a)(9)(B)(i).''.

SEC. 526. DETENTION OF DANGEROUS ALIEN.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended—

(1) in subsection (a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears;

(2) in subsection (a)(1)(B), by adding after clause (iii) the following:

''If, at that time, the alien is not in the custody of the Secretary (under the authority of this Act), the Secretary shall take the alien into custody for removal, and the removal period shall not begin until the alien is taken into such custody. If the Secretary transfers custody of the alien during the removal period pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall begin anew on the date of the alien's return to the custody of the Secretary.'';

(3) by amending clause (ii) of subsection (a)(1)(B) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the date the stay of removal is no longer in effect.'';

(4) by amending subparagraph (C) of subsection (a)(1) to read as follows:

''(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent the alien's removal subject to an order of removal.'';

(5) in subsection (a)(2), by adding at the end ''If a court orders a stay of removal of an alien who is subject to an administratively final order of removal, the Secretary in the exercise of discretion may detain the alien during the pendency of such stay of removal.'';

(6) in subsection (a)(3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent the alien from absconding, or for the protection of the community, or for other purposes related to the enforcement of the immigration laws.'';

(7) in subsection (a)(6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(8) by redesignating paragraph (7) of subsection (a) as paragraph (10) and inserting after paragraph (6) of such subsection the following new paragraphs:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary, in the Secretary's discretion, may parole the alien under section 212(d)(5) of this Act and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) APPLICATION OF ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.—The rules set forth in subsection (j) shall only apply with respect to an alien who was lawfully admitted the most recent time the alien entered the United States or has otherwise effected an entry into the United States.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of

any action or decision pursuant to paragraphs (6), (7), or (8) or subsection (j) shall be available exclusively in habeas corpus proceedings instituted in the United States District Court for the District of Columbia, and only if the alien has exhausted all administrative remedies (statutory and regulatory) available to the alien as of right.''; and

(9) by adding at the end the following new subsection:

''(j) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN ENTRY.—

''(1) APPLICATION.—The rules set forth in this subsection apply in the case of an alien described in subsection (a)(8).

''(2) ESTABLISHMENT OF A DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY COOPERATE WITH REMOVAL.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether the aliens should be detained or released on conditions for aliens who—

''(i) have made all reasonable efforts to comply with their removal orders;

''(ii) have complied with the Secretary's efforts to carry out the removal orders, including making timely application in good faith for travel or other documents necessary to the alien's departure; and

''(iii) have not conspired or acted to prevent removal.

''(B) DETERMINATION.—The Secretary shall make a determination whether to release an alien after the removal period in accordance with paragraphs (3) and (4). The determination—

''(i) shall include consideration of any evidence submitted by the alien and the history of the alien's efforts to comply with the order of removal; and

''(ii) may include any information or assistance provided by the Secretary of State or other Federal agency and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

''(3) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

''(A) INITIAL 90-DAY PERIOD.—The Secretary of Homeland Security in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

''(B) EXTENSION.—

''(i) IN GENERAL.—The Secretary in the exercise of discretion, without any limitations other than those specified in this section, may continue to detain an alien beyond the 90-day period authorized in subparagraph (A)—

''(I) until the alien is removed if the conditions described in subparagraph (A) or (B) of paragraph (4) apply; or

''(II) pending a determination as provided in subparagraph (C) of paragraph (4).

''(ii) RENEWAL.—The Secretary may renew a certification under paragraph (4)(B) every six months without limitation, after providing an opportunity for the alien to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew a certification, the Secretary may not continue to detain the alien under such paragraph.

''(iii) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification described in clause (ii), (iii), or (v) of paragraph (4)(B) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(iv) HEARING.—The Secretary may request that the Attorney General provide for a hearing to make the determination described in clause (iv)(II) of paragraph (4)(B).

''(4) CONDITIONS FOR EXTENSION.—The conditions for continuation of detention are any of the following:

''(A) The Secretary determines that there is a significant likelihood that the alien—

''(i) will be removed in the reasonably foreseeable future; or

''(ii) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien's failure or refusal to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspiracies or acts to prevent removal.

''(B) The Secretary certifies in writing any of the following:

''(i) In consultation with the Secretary of Health and Human Services, the alien has a highly contagious disease that poses a threat to public safety.

''(ii) After receipt of a written recommendation from the Secretary of State, the release of the alien is likely to have serious adverse foreign policy consequences for the United States.

''(iii) Based on information available to the Secretary (including available information from the intelligence community, and without regard to the grounds upon which the alien was ordered removed), there is reason to believe that the release of the alien would threaten the national security of the United States.

''(iv) The release of the alien will threaten the safety of the community or any person, the conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and—

''(I) the alien has been convicted of one or more aggravated felonies described in section 101(a)(43)(A) or of one or more crimes identified by the Secretary by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such crimes, for an aggregate term of imprisonment of at least five years; or

''(II) the alien has committed one or more crimes of violence and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future.

''(v) The release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and the alien has been convicted of at least one aggravated felony.

''(C) Pending a determination under subparagraph (B), if the Secretary has initiated the administrative review process no later than 30 days after the expiration of the removal period (including any extension of the removal period as provided in subsection (a)(1)(C)).

''(5) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary in the exercise of discretion may impose conditions on release as provided in subsection (a)(3).

''(6) REDETENTION.—The Secretary in the exercise of discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody if the alien fails to comply with the conditions of release or to cooperate in the alien's removal from the United States, or if, upon reconsideration, the Secretary determines that the alien can be detained under paragraph (1). Paragraphs (6) through (8) of subsection (a) shall apply to any alien returned to custody pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

''(7) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has effected an entry into the United States but has neither been lawfully admitted nor physically present in the United States continuously for the 2-year period immediately prior to the commencement of removal proceedings under this Act or deportation proceedings against the alien, the Secretary in the exercise of discretion may decide not to apply subsection (a)(8) and this subsection and may detain the alien without any limitations except those imposed by regulation.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this Act, and section 241 of the Immigration and Nationality Act, as amended, shall apply to—

(1) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(2) acts and conditions occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 527. ALTERNATIVES TO DETENTION.

The Secretary of Homeland Security shall implement pilot programs in the 6 States with the largest estimated populations of deportable aliens to study the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders.

SEC. 528. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this title.

SA 3422. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the matter proposed to be inserted and insert the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien's employer.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SA 3423. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3386 submitted by Mr. KYL and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the matter proposed to be inserted and insert the following:

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity

training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 132(a), is further amended by adding at the end the following:

''§ 555. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 132(b), is further amended by adding at the end the following:

''Sec. 555. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''555,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody

unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation

under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved

in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.
''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.
''1555. Exception for refugees and asylees.

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws,

or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place

that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of

property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines

that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer

and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—TEMPORARY WORKER PROGRAMS AND VISA REFORM

Subtitle A—Requirements for Participating Countries

SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) HOUSING.—Participating countries shall agree to evaluate means to provide housing incentives in the alien's home country for returning workers.

Subtitle B—Nonimmigrant Temporary Worker Program

SEC. 411. NONIMMIGRANT TEMPORARY WORKER CATEGORY.

(a) NEW TEMPORARY WORKER CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

''(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or''.

(b) REPEAL OF H–2B CATEGORY.—Section 101(a)(15)(H)(ii) is amended by striking '', or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession''.

(c) TECHNICAL AMENDMENTS.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking ''or'' at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and ''or''.

SEC. 412. TEMPORARY WORKER PROGRAM.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

''SEC. 218A. TEMPORARY WORKER PROGRAM.

''(a) IN GENERAL.—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15)).

''(b) REQUIREMENTS FOR ADMISSION.—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).

''(2) EVIDENCE OF EMPLOYMENT.—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security may require an alien to include

with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

''(i) to administrative or judicial review or appeal of an immigration officer's determination as to the alien's admissibility; or

''(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as a nonimmigrant under section 101(a)(15)(W)—

''(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

''(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

''(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a $500 fee upon approval of the alien's visa application.

''(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS AND INTERVIEW.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An alien admitted under section 101(a)(15)(W) is ineligible to change status under section 248.

''(f) DURATION.—

''(1) GENERAL.—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien's home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

''(2) SEASONAL WORKERS.—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).

''(3) COMMUTERS.—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).

''(4) DEFERRED MANDATORY DEPARTURE.—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

''(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

''(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

''(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

''(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.

''(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

''(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

''(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

''(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

''(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien's authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.

''(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

''(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the 'Task Force').

''(2) PURPOSES.—The purposes of the Task Force are—

''(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

''(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

''(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

''(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

''(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

''(C) 2 shall be appointed by the majority leader of the Senate;

''(D) 2 shall be appointed by the minority leader of the Senate;

''(E) 2 shall be appointed by the Speaker of the House of Representatives; and

''(F) 2 shall be appointed by the minority leader of the House of Representatives.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—Members of the Task Force shall be—

''(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

''(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

''(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

''(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

''(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

''(7) MEETINGS.—

''(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

''(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

''(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

''(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

''(A) findings with respect to the duties of the Task Force;

''(B) recommendations for imposing a numerical limit.

''(10) DETERMINATION.—Not later than 6 months after the submission of the report,

the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

''(l) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS OF W NONIMMIGRANTS.—

''(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

''(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

''(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of $100.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(m) TRAVEL OUTSIDE THE UNITED STATES.—

''(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

''(A) may travel outside of the United States; and

''(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

''(n) EMPLOYMENT.—

''(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

''(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien's departure from the United States.

''(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

''(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(q) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien's period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) PROHIBITION ON CHANGE IN NONIMMIGRANT CLASSIFICATION.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking ''or (S)'' and inserting ''(S), or (W)''.

SEC. 413. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this subtitle.

Subtitle C—Mandatory Departure and Reentry in Legal Status

SEC. 421. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218A, as added by section 412, the following new section:

''SEC. 218B. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—

''(1) PRESENCE.—An alien must establish that the alien was physically present in the United States 1 year prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005 in Congress and has been continuously in the United States since such date, and was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

''(2) EMPLOYMENT.—An alien must establish that the alien was employed in the United States prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005, and has been employed in the United States since that date.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien must establish that he—

''(i) is admissible to the united states, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBLE.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) is subject to a final order or removal under section 240;

''(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

''(C) has been issued a Notice to Appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or is inadmissible under section 212(a)(6)(A);

''(D) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

''(E) fails to comply with any request for information by the Secretary of Homeland Security.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

''(A) if the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) if the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have

engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(1) an acknowledgment made in writing and under oath that the alien—

''(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(B) understands the terms of the terms of Deferred Mandatory Departure;

''(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(3) any false or fraudulent documents in the alien's possession.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant an alien Deferred Mandatory Departure status for a period not to exceed 5 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure must depart prior to the expiration of the period of Deferred Mandatory Departure status. The alien must register with the Secretary of Homeland Security at time of departure and surrender any evidence of Deferred Mandatory Departure status at time of departure.

''(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs prior to the expiration of such status shall not be subject to section 212(a)(9)(B) and, if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

''(4) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to the following fees:

''(A) No fine if the alien departs within the first year after the grant of Deferred Mandatory Departure.

''(B) $2,000 if the alien does not depart within the second year after the grant of Deferred Mandatory Departure.

''(C) $3,000 if the alien does not depart within the third year following the grant of Deferred Mandatory Departure.

''(D) $4,000 if the alien does not depart within the fourth year following the grant of Deferred Mandatory Departure.

''(E) $5,000 if the alien does not depart during the fifth year following the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status is prohibited from applying to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS.—

''(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens under section 218C.

''(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the

Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) CONFORMING AMENDMENT.—Amend section 237(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218B),''.

SEC. 422. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this subtitle, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subtitle.

Subtitle D—Alien Employment Management System

SEC. 431. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 621, the following new section:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—

''(1) PURPOSE.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage and track the employment of aliens described in section 218A or 218B.

''(2) DEADLINE.—The program under subsection (a) shall commence prior to any alien being admitted under section 101(a)(15)(W) or granted Deferred Mandatory Departure under section 218B.

''(b) REQUIREMENTS.—The program shall—

''(1) enable employers who seek to hire aliens described in section 218A or 218B to apply for authorization to employ such aliens;

''(2) be interoperable with Social Security databases and must provide a means of immediately verifying the identity and employment authorization of an alien described in section 218A or 218B, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;

''(3) require an employer to utilize readers or scanners at the location of employment or at a Federal facility to transmit the biometric and biographic information contained in the alien's evidence of status to the Secretary of Homeland Security, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005; and

''(4) collect sufficient information from employers to enable the Secretary of Homeland Security to identify—

''(A) whether an alien described in section 218A or 218B is employed;

''(B) any employer that has hired an alien described in section 218A or 218B;

''(C) the number of aliens described in section 218A or 218B that an employer is authorized to hire and is currently employing; and

''(D) the occupation, industry and length of time that an alien described in section 218A or 218B has been employed in the United States.

''(c) AUTHORIZATION TO HIRE ALIENS DESCRIBED IN SECTION 218A OR 218B.—

''(1) APPLICATION.—An employer must apply, through the program described in subsection (a) of this section, to obtain authorization to hire aliens described in section 218A or 218B.

''(2) PENALTIES.—An employer who employs an alien described in section 218A or 218B without authorization is subject to the same penalties and provisions as an employer who violates section 274(a)(1)(A) or (a)(2). An employer shall be subject to penalties prescribed by the Secretary of Homeland Security by regulation, which may include monetary penalties and debarment from eligibility to hire aliens described in section 218A or 218B.

''(3) ELIGIBILITY.—An employer must establish that it is a legitimate company and must attest that it will comply with the terms of the program established under subsection (a).

''(4) NUMBER OF ALIENS AUTHORIZED.—An employer may request authorization to multiple aliens described in section 218A or 218B.

''(5) ELECTRONIC FORM.—The program established under subsection (a) shall permit employers to submit applications under this subsection in an electronic form.

''(d) NOTIFICATION UPON TERMINATION OF EMPLOYMENT.—An employer, through the program established under subsection (a), must notify the Secretary of Homeland Security not more than 3 business days after the date of the termination of the alien's employment. The employer is not authorized to fill the position with another alien described in section 218A or 218B until the employer notifies the Secretary of Homeland Security that the alien is no longer employed by that employer.

''(e) PROTECTION OF UNITED STATES WORKERS.—An employer may not be authorized to hire an alien described in section 218A or 218B until the employer submits an attestation stating the following:

''(1) The employer has posted the position in a national, electronic job registry maintained by the Secretary of Labor, for not less than 30 days.

''(2) The employer has offered the position to any eligible United States worker who applies and is equally or better qualified for the job for which a temporary worker is sought and who will be available at the time and place of need. An employer shall maintain records for not less than 1 year demonstrating that why United States workers who applied were not hired.

''(3) The employer shall comply with the terms of the program established under subsection (a), including the terms of any temporary worker monitoring program established by the Secretary.

''(4) The employer shall not hire more aliens than the number authorized by the Secretary of Homeland Security has authorized it to hire.

''(5) The worker shall be paid at least the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage. All wages will be paid in a timely manner and all payroll records will be maintained accurately.

''(6) The employment of a temporary worker shall not adversely affect the working conditions of other similarly employed United States workers.

''(f) APPROVAL.—After determining that there are no United States workers who are qualified and willing to obtain the employment for which the employer is seeking temporary workers, the Secretary of Homeland Security may approve the application submitted by the employer under this paragraph for the number of temporary workers that the Secretary determines are required by the employer. Such approval shall be valid for a 2-year period.''.

SEC. 432. LABOR INVESTIGATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Labor shall conduct audits, including random audits, of employers who employ aliens described under section 218A or 218B of the Immigration and Nationality Act, as added by section 412 and 421, respectively.

(b) PENALTIES.—The Secretary of Homeland Security shall establish penalties, which may include debarment from eligibility for hire also described under section 218A, as added by section 412 of this Act, 218B, as added by section 421 of this Act, for employers who fail to comply with section 218C of the Immigration and Nationality Act as added by section 431 of this Act, and shall establish protections for aliens who report employers who fail to comply with such section.

Subtitle E—Protection Against Immigration Fraud

SEC. 441. GRANTS TO SUPPORT PUBLIC EDUCATION AND TRAINING.

(a) GENERAL PROGRAM PURPOSE.—The purpose of this subtitle is to assist qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act and the amendments made by this Act.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The grants under this part shall be used to fund public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by non-profit community organizations in providing services related to this Act, and to educate, train and support non-profit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation. In particular, funding shall be provided to non-profit organizations for the purposes of—

(1) educating immigrant communities and other interested entities on the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary of Homeland Security, and on the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(2) educating interested entities on the requirements for obtaining non-profit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary of Homeland Security, and providing non-profit agencies with training and technical assistance on the recognition and accreditation process; and

(3) educating non-profit community organizations, immigrant communities and other interested entities on the process for obtaining benefits under this Act or an amendment made by this Act, and the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act of an amendment made by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs at the United States Department of Justice to carry out this section—

(1) $40,000,000 for fiscal year 2006;

(2) $40,000,000 for fiscal year 2007; and

(3) $40,000,000 for fiscal year 2008.

(d) IN GENERAL.—The Office of Justice Programs shall ensure, to the extent possible, that the non-profit community organizations funded under this Section shall serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

Subtitle F—Circular Migration

SEC. 451. INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

''(2) For purposes of this subsection—

''(A) the term 'temporary worker taxes' means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and

''(B) the term 'temporary worker' means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.''.

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the ''**PART A—SOCIAL SECURITY**''; and

(2) by adding at the end the following:

''PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS

''DEFINITIONS

''SEC. 251. For purposes of this part:

''(1) COVERED EMPLOYER.—The term 'covered employer' means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(3) TEMPORARY WORKER.—The term 'temporary worker' an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

''(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term 'temporary worker investment account' means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

''(5) TEMPORARY WORKER INVESTMENT FUND.—The term 'Temporary Worker Investment Fund' means the fund established under section 253.

''TEMPORARY WORKER INVESTMENT ACCOUNTS

''SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W–4 form (or any successor form) identifying such individual as a temporary worker.

''(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

''(c) TEMPORARY WORKER'S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

''TEMPORARY WORKER INVESTMENT FUND

''SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the 'Temporary Worker Investment Fund' to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

''(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker's investment account transfers shall be shown on such worker's W–2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

''(c) INVESTMENT EARNINGS REPORT.—

''(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

''(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

''(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

''(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

''(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker's account.

''(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

''TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

''SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker's nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker's home country.

''(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before the date determined under subsection (a), the balance in the worker's account shall be distributed to the worker's estate under rules established by the Secretary.''.

(c) TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W–2S.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking ''and'' at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker's temporary worker investment account under section 201(o) of such Act.''.

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting ''and paid as tax under section 3111'' after ''section 3101''; and

(B) in subsection (c), by inserting ''and paid as tax under section 3111'' after ''section 3101''.

Subtitle G—Backlog Reduction

SEC. 461. EMPLOYMENT BASED IMMIGRANTS.

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 140,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those years; and

''(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

''(4) the number of visas previously made available under section 203(e).''.

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the ''Task Force'').

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 462. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 463. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''10 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''10 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''4 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 36 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States''; and

(8) by striking paragraph (6).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1153 note) is repealed.

Subtitle H—Temporary Agricultural Workers

SEC. 471. SENSE OF THE SENATE ON TEMPORARY AGRICULTURAL WORKERS.

It is the sense of the Senate that consideration of any comprehensive immigration reform during the 109th Congress will include agricultural workers.

Subtitle I—Effect of Other Provisions

SEC. 481. EFFECT OF OTHER PROVISIONS.

Notwithstanding any other provision of this Act, the provisions of, and the amendments made by, titles V and VI of this Act are null and void.

SA 3424. Mr. FRIST proposed an amendment to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Immigration Reform Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Reference to the Immigration and Nationality Act.
Sec. 3. Definitions.
Sec. 4. Severability.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

Sec. 101. Enforcement personnel.
Sec. 102. Technological assets.
Sec. 103. Infrastructure.
Sec. 104. Border patrol checkpoints.
Sec. 105. Ports of entry.
Sec. 106. Construction of strategic border fencing and vehicle barriers.

Subtitle B—Border Security Plans, Strategies, and Reports

Sec. 111. Surveillance plan.
Sec. 112. National Strategy for Border Security.
Sec. 113. Reports on improving the exchange of information on North American security.
Sec. 114. Improving the security of Mexico's southern border.
Sec. 115. Combating human smuggling.
Sec. 116. Deaths at United States-Mexico border.

Subtitle C—Other Border Security Initiatives

Sec. 121. Biometric data enhancements.
Sec. 122. Secure communication.

Sec. 123. Border patrol training capacity review.
Sec. 124. US-VISIT System.
Sec. 125. Document fraud detection.
Sec. 126. Improved document integrity.
Sec. 127. Cancellation of visas.
Sec. 128. Biometric entry-exit system.
Sec. 129. Border study.
Sec. 130. Secure border initiative financial accountability.
Sec. 131. Mandatory detention for aliens apprehended at or between ports of entry.
Sec. 132. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.

Subtitle D—Border Tunnel Prevention Act

Sec. 141. Short title.
Sec. 142. Construction of border tunnel or passage.
Sec. 143. Directive to the United States Sentencing Commission.

Subtitle E—Border Law Enforcement Relief Act

Sec. 151. Short title.
Sec. 152. Findings.
Sec. 153. Border relief grant program.
Sec. 154. Enforcement of Federal immigration law.

TITLE II—INTERIOR ENFORCEMENT

Sec. 201. Removal and denial of benefits to terrorist aliens.
Sec. 202. Detention and removal of aliens ordered removed.
Sec. 203. Aggravated felony.
Sec. 204. Terrorist bars.
Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
Sec. 206. Illegal entry.
Sec. 207. Illegal reentry.
Sec. 208. Reform of passport, visa, and immigration fraud offenses.
Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
Sec. 210. Incarceration of criminal aliens.
Sec. 211. Encouraging aliens to depart voluntarily.
Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
Sec. 215. Diplomatic security service.
Sec. 216. Field agent allocation and background checks.
Sec. 217. Construction.
Sec. 218. State criminal alien assistance program.
Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
Sec. 220. Reducing illegal immigration and alien smuggling on tribal lands.
Sec. 221. Alternatives to detention.
Sec. 222. Conforming amendment.
Sec. 223. Reporting requirements.
Sec. 224. State and local enforcement of Federal immigration laws.
Sec. 225. Removal of drunk drivers.
Sec. 226. Medical services in underserved areas.
Sec. 227. Expedited removal.
Sec. 228. Protecting immigrants from convicted sex offenders.
Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.
Sec. 230. Laundering of monetary instruments.
Sec. 231. Listing of immigration violators in the National Crime Information Center database.
Sec. 232. Cooperative enforcement programs.
Sec. 233. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
Sec. 234. Determination of immigration status of individuals charged with Federal offenses.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

Sec. 301. Unlawful employment of aliens.
Sec. 302. Employer Compliance Fund.
Sec. 303. Additional worksite enforcement and fraud detection agents.
Sec. 304. Clarification of ineligibility for misrepresentation.

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

Sec. 401. Immigration impact study.
Sec. 402. Nonimmigrant temporary worker.
Sec. 403. Admission of nonimmigrant temporary guest workers.
Sec. 404. Employer obligations.
Sec. 405. Alien employment management system.
Sec. 406. Rulemaking; effective date.
Sec. 407. Recruitment of United States workers.
Sec. 408. Temporary guest worker visa program task force.
Sec. 409. Requirements for participating countries.
Sec. 410. S visas.
Sec. 411. L visa limitations.
Sec. 412. Authorization of appropriations.

Subtitle B—Immigration Injunction Reform

Sec. 421. Short title.
Sec. 422. Appropriate remedies for immigration legislation.
Sec. 423. Effective date.

TITLE V—BACKLOG REDUCTION

Sec. 501. Elimination of existing backlogs.
Sec. 502. Country limits.
Sec. 503. Allocation of immigrant visas.
Sec. 504. Relief for minor children.
Sec. 505. Shortage occupations.
Sec. 506. Relief for widows and orphans.
Sec. 507. Student visas.
Sec. 508. Visas for individuals with advanced degrees.

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

Sec. 601. Access to earned adjustment and mandatory departure and reentry.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

Sec. 611. Short title.
Sec. 612. Definitions.

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

Sec. 613. Agricultural workers.
Sec. 614. Correction of Social Security records.

CHAPTER 2—REFORM OF H–2A WORKER PROGRAM

Sec. 615. Amendment to the Immigration and Nationality Act.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Sec. 616. Determination and use of user fees.
Sec. 617. Regulations.
Sec. 618. Report to Congress.
Sec. 619. Effective date.

Subtitle C—DREAM Act

Sec. 621. Short title.
Sec. 622. Definitions.
Sec. 623. Restoration of State option to determine residency for purposes of higher education benefits.
Sec. 624. Cancellation of removal and adjustment of status of certain long-term residents who entered the United States as children.
Sec. 625. Conditional permanent resident status.
Sec. 626. Retroactive benefits.
Sec. 627. Exclusive jurisdiction.
Sec. 628. Penalties for false statements in application.
Sec. 629. Confidentiality of information.
Sec. 630. Expedited processing of applications; prohibition on fees.
Sec. 631. Higher Education assistance.
Sec. 632. GAO report.

Subtitle D—Grant Programs to Assist Nonimmigrant Workers

Sec. 641. Grants to support public education and community training.
Sec. 642. Funding for the Office of Citizenship.
Sec. 643. Civics integration grant program.
Sec. 644. Strengthening American citizenship.

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase

by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

"SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

SEC. 116. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones,

inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Subtitle E—Border Law Enforcement Relief Act

SEC. 151. SHORT TITLE.

This subtitle may be cited as the ''Border Law Enforcement Relief Act of 2006''.

SEC. 152. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. 153. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 154. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this subtitle shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary

does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

"SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

"SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

"CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''Sec.
''1541. Trafficking in passports.
''1542. False statement in an application for a passport.
''1543. Forgery and unlawful production of a passport.

''1544. Misuse of a passport.
''1545. Schemes to defraud aliens.
''1546. Immigration and visa fraud.
''1547. Marriage fraud.
''1548. Attempts and conspiracies.
''1549. Alternative penalties for certain offenses.
''1550. Seizure and forfeiture.
''1551. Additional jurisdiction.
''1552. Additional venue.
''1553. Definitions.
''1554. Authorized law enforcement activities.
''1555. Exception for refugees and asylees.

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly–

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or

domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended–

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date

of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—''; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration

laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities

under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the

System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MID-SIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ,

recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2)

of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of

legal status, including immigrant and nonimmigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of nonrenewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans' mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

''(H) an alien—

''(i)(b) subject to section 212(j)(2)—

''(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

''(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

''(b1)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

''(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

''(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

''(bb) who meets the qualifications described in section 212(m)(1); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

''(ii)(a) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

''(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

''(b) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

''(c) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

''(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

''(iii) who—

''(a) has a residence in a foreign country which the alien has no intention of abandoning; and

''(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

''(iv) who—

''(a) is the spouse or a minor child of an alien described in clause (iii); and

''(b) is accompanying or following to join such alien.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 1 year after the date of the enactment of this Act and shall apply to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) TEMPORARY GUEST WORKERS.—

(1) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''SEC. 218A. ADMISSION OF H–2C NONIMMIGRANTS.

''(a) AUTHORIZATION.—The Secretary of State may grant a temporary visa to an H–2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

''(b) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for H–2C nonimmigrant status if the alien meets the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

''(2) EVIDENCE OF EMPLOYMENT.—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for H–2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history and gang membership;

''(iii) immigration history; and

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

''(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

''(i) the alien has read and understands all of the questions and statements on the application form;

''(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

''(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as an H–2C nonimmigrant—

''(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

''(B) the Secretary of Homeland Security may not waive the application of—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

''(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

''(i) for humanitarian purposes;

''(ii) to ensure family unity; or

''(iii) if such a waiver is otherwise in the public interest.

''(2) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as an H–2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H–2C nonimmigrant status unless all appropriate background checks have been completed.

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An H–2C nonimmigrant may not change nonimmigrant classification under section 248.

''(f) PERIOD OF AUTHORIZED ADMISSION.—

''(1) AUTHORIZED PERIOD AND RENEWAL.—The initial period of authorized admission as an H–2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

''(2) INTERNATIONAL COMMUTERS.—An alien who resides outside the United States and commutes into the United States to work as an H–2C nonimmigrant, is not subject to the time limitations under paragraph (1).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (c), the period of authorized admission of an H–2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

''(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H–2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsections (b) and (f)(2). The Secretary may, in the Secretary's sole and unreviewable discretion, reauthorize such alien for admission as an H–2C nonimmigrant without requiring the alien's departure from the United States.

''(4) VISITS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, an H–2C nonimmigrant—

''(i) may travel outside of the United States; and

''(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

''(5) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted H–2C nonimmigrant status, or an extension of such status, if—

''(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

''(B) the alien is inadmissible as a nonimmigrant; or

''(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H–2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H–2C nonimmigrant status.

''(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H–2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

''(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

''(3) shall, during the alien's authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; and

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(5) shall be issued to the H–2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien's application for H–2C nonimmigrant status.

''(h) PENALTY FOR FAILURE TO DEPART.—If an H–2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien's authorized period of admission as an H–2C nonimmigrant terminates, the H–2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is physically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

''(1) any relief under sections 240A and 240B; or

''(2) nonimmigrant status under section 101(a)(15).

''(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H–2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

''(1) the employer complies with section 218B; and

''(2) the alien, after lawful admission to the United States, did not work without authorization.

''(k) CHANGE OF ADDRESS.—An H–2C nonimmigrant shall comply with the change of address reporting requirements under section 265 through either electronic or paper notification.

''(l) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

''(m) ISSUANCE OF H–4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—The alien spouse and children of an H–2C nonimmigrant (referred to in this section as 'dependent aliens') who are accompanying or following to join the H–2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

''(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependant alien meets the following requirements:

''(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H–4A nonimmigrant status listed under subsection (c).

''(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien may be required to submit to a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

''(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

''(1) AGGRIEVED PERSON.—The term 'aggrieved person' means a person adversely affected by an alleged violation of this section, including—

''(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

''(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

''(2) AREA OF EMPLOYMENT.—The terms 'area of employment' and 'area of intended employment' mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

''(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms 'employ', 'employee', and 'employer' have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

''(5) FOREIGN LABOR CONTRACTOR.—The term 'foreign labor contractor' means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

''(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term 'foreign labor contracting activity' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

''(7) H–2C NONIMMIGRANT.—The term 'H–2C nonimmigrant' means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

''(8) SEPARATION FROM EMPLOYMENT.—The term 'separation from employment' means the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee's rights under a collective bargaining agreement or other employment contract.

''(9) UNITED STATES WORKER.—The term 'United States worker' means an employee who is—

''(A) a citizen or national of the United States; or

''(B) an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) admitted as a refugee under section 207;

''(iii) granted asylum under section 208; or

''(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–2C workers.''.

(b) CREATION OF STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Aid Account'. Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B.''.

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

''SEC. 218B. EMPLOYER OBLIGATIONS.

''(a) GENERAL REQUIREMENTS.—Each employer who employs an H–2C nonimmigrant shall—

''(1) file a petition in accordance with subsection (b); and

''(2) pay the appropriate fee, as determined by the Secretary of Labor.

''(b) PETITION.—A petition to hire an H–2C nonimmigrant under this section shall include an attestation by the employer of the following:

''(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H–2C nonimmigrant—

''(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

''(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

''(2) WAGES.—

''(A) IN GENERAL.—The H–2C nonimmigrant will be paid not less than the greater of—

''(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

''(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

''(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

''(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance with this subparagraph. If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement. If the job opportunity is not covered by such an agreement, and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

''(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H–2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

''(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H–2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

''(5) PROVISION OF INSURANCE.—If the position for which the H–2C nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the H–2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(6) NOTICE TO EMPLOYEES.—

''(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the H–2C nonimmigrant is sought.

''(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

''(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H–2C nonimmigrant is sought; or

''(ii) electronically disseminated such a notice to the employer's employees in the occupational classification for which the H–2C nonimmigrant is sought.

''(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H–2C nonimmigrant is sought—

''(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

''(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

''(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

''(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

''(8) INELIGIBILITY.—The employer is not currently ineligible from using the H–2C nonimmigrant program described in this section.

''(9) BONAFIDE OFFER OF EMPLOYMENT.—The job for which the H–2C nonimmigrant is sought is a bona fide job—

''(A) for which the employer needs labor or services;

''(B) which has been and is clearly open to any United States worker; and

''(C) for which the employer will be able to place the H–2C nonimmigrant on the payroll.

''(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

''(A) be provided to every H–2C nonimmigrant employed under the petition;

''(B) be made available for public examination at the employer's place of business or work site;

''(C) be made available to the Secretary of Labor during any audit; and

''(D) remain available for examination for 5 years after the date on which the petition is filed.

''(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H–2C nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

''(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H–2C nonimmigrant is sought.

''(c) AUDIT OF ATTESTATIONS.—

''(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H–2C nonimmigrants to the Secretary of Labor for potential audit.

''(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

''(d) INELIGIBLE EMPLOYERS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer's petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of

Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

''(A) has, with respect to the attestations required under subsection (b)—

''(i) misrepresented a material fact;

''(ii) made a fraudulent statement; or

''(iii) failed to comply with the terms of such attestations; or

''(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

''(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

''(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H–2C nonimmigrant is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for unskilled and low-skilled workers during the most recently completed 6-month period averaged more than 11.0 percent.

''(e) REGULATION OF FOREIGN LABOR CONTRACTORS.—

''(1) COVERAGE.—Notwithstanding any other provision of law, an H–2C nonimmigrant may not be treated as an independent contractor.

''(2) APPLICABILITY OF LAWS.—An H–2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

''(3) TAX RESPONSIBILITIES.—With respect to each employed H–2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(f) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H–2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

''(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

''(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

''(g) LABOR RECRUITERS.—

''(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

''(A) the place of employment;

''(B) the compensation for the employment;

''(C) a description of employment activities;

''(D) the period of employment;

''(E) any other employee benefit to be provided and any costs to be charged for each benefit;

''(F) any travel or transportation expenses to be assessed;

''(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

''(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

''(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

''(i) work related injuries and death during the period of employment;

''(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

''(iii) the name and the telephone number of each person who must be notified of an injury or death; and

''(iv) the time period within which such notice must be given;

''(J) any education or training to be provided or required, including—

''(i) the nature and cost of such training;

''(ii) the entity that will pay such costs; and

''(iii) whether the training is a condition of employment, continued employment, or future employment; and

''(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

''(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

''(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

''(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

''(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

''(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

''(7) OTHER WORKER PROTECTIONS.—

''(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

''(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

''(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

''(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

''(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

''(II) an expeditious means to update registrations and renew certificates; and

''(III) any other requirements that the Secretary may prescribe.

''(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

''(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

''(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

''(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

''(aa) is a person who has been refused issuance or renewal of a certificate;

''(bb) has had a certificate suspended or revoked; or

''(cc) does not qualify for a certificate under this paragraph; or

''(III) the applicant for or holder of the certification has failed to comply with this Act.

''(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

''(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

''(h) ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

''(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

''(4) NOTICE AND HEARING.—

''(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice

to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

''(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

''(5) ATTORNEYS' FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys' fees and costs.

''(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

''(A) to seek remedial action, including injunctive relief;

''(B) to recover the damages described in subsection (i); or

''(C) to ensure compliance with terms and conditions described in subsection (g).

''(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

''(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(i) PENALTIES.—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) benefits; and

''(C) civil monetary penalties.

''(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

''(A) for a violation of subsection (e) or (f)—

''(i) a fine in an amount not to exceed $2,000 per violation per affected worker;

''(ii) if the violation was willful violation, a fine in an amount not to exceed $5,000 per violation per affected worker;

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed $25,000 per violation per affected worker; and

''(B) for a violation of subsection (g)—

''(i) a fine in an amount not less than $500 and not more than $4,000 per violation per affected worker;

''(ii) if the violation was willful, a fine in an amount not less than $2,000 and not more than $5,000 per violation per affected worker; and

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than $6,000 and not more than $35,000 per violation per affected worker.

''(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

''(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than $35,000, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

''Sec. 218B. Employer obligations.''.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the 'alien employment management system') to manage and track the employment of aliens described in sections 218A and 218D.

''(b) REQUIREMENTS.—The alien employment management system shall—

''(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H–2C nonimmigrant;

''(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

''(A) if the nonimmigrant is employed;

''(B) which employers have hired an H–2C nonimmigrant;

''(C) the number of H–2C nonimmigrants that an employer is authorized to hire and is currently employing;

''(D) the occupation, industry, and length of time that an H–2C nonimmigrant has been employed in the United States;

''(3) allow employers to request approval of multiple H–2C nonimmigrant workers; and

''(4) permit employers to submit applications under this section in an electronic form.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

''Sec. 218C. Alien employment management system.''.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly accessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency's statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity in accordance with section 218B(b)(9) of the Immigration and Nationality Act, as added by this Act.

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H–2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the ''Temporary Worker Task Force'' (referred to in this section as the ''Task Force'').

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) MEETINGS.—

(1) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(C) under section 101(a)(15)(H)(ii)(c) may not exceed—

''(i) 400,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year—

''(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

''(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

''(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''.

(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, if the alien has maintained such nonimmigrant status in the United States for a cumulative total of 4 years.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien's home country for returning workers.

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, ', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4)

may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

''(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

''(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004,''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each

database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

SEC. 601. ACCESS TO EARNED ADJUSTMENT AND MANDATORY DEPARTURE AND REENTRY.

(a) SHORT TITLE.—This section may be cited as the ''Immigrant Accountability Act of 2006''.

(b) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''SEC. 245B. ACCESS TO EARNED ADJUSTMENT.

''(a) ADJUSTMENT OF STATUS.—

''(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

''(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

''(B) CONTINUOUS PHYSICAL PRESENCE.—

''(i) IN GENERAL.—The alien shall establish that the alien—

''(I) was physically present in the United States on or before the date that is 5 years before April 5, 2006;

''(II) was not legally present in the United States on April 5, 2006; and

''(III) did not depart from the United States during the 5-year period ending on April 5, 2006, except for brief, casual, and innocent departures.

''(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall be considered not to be legally present in the United States.

''(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

''(D) EMPLOYMENT IN UNITED STATES.—

''(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

''(I) at least 3 years during the 5-year period ending on April 5, 2006; and

''(II) at least 6 years after the date of enactment of the Immigrant Accountability Act of 2006.

''(ii) EXCEPTIONS.—

''(I) The employment requirement in clause (i)(I) shall not apply to an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006.

''(II) The employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

''(III) The employment requirement in clause (i)(II) shall be reduced for an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006 by a period of time equal to the time period beginning on such date of enactment and ending on the date on which the individual reaches 20 years of age.

''(IV) The employment requirements in clause (i) shall be reduced by 1 year for each year of full time post-secondary study in the United States during the relevant period.

''(iii) PORTABILITY.—An alien shall not be required to complete the employment requirements in clause (i) with the same employer.

''(iv) EVIDENCE OF EMPLOYMENT.—

''(I) CONCLUSIVE DOCUMENTS.—For purposes of satisfying the requirements in clause (i), the alien shall submit at least 2 of the following documents for each period of employment, which shall be considered conclusive evidence of such employment:

''(aa) Records maintained by the Social Security Administration.

''(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

''(cc) Records maintained by the Internal Revenue Service.

''(dd) Records maintained by a union or day labor center.

''(ee) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

''(II) OTHER DOCUMENTS.—Aliens unable to submit documents described in subclause (I) shall submit at least 3 other types of reliable documents, including sworn declarations, for each period of employment to satisfy the requirement in clause (i).

''(III) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in clause (i) be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i). An alien may satisfy such burden of proof by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

''(E) PAYMENT OF INCOME TAXES.—Not later than the date on which status is adjusted under this subsection, the alien shall establish the payment of all Federal and State income taxes owed for employment during the period of employment required under subparagraph (D)(i). The alien may satisfy such requirement by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

''(F) BASIC CITIZENSHIP SKILLS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien either—

''(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and Government of the United States); or

''(II) is satisfactorily pursuing a course of study, recognized by the Secretary of Homeland Security, to achieve such understanding of English and the history and Government of the United States.

''(ii) EXCEPTIONS.—

''(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

''(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

''(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(H) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

''(I) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

''(i) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

''(ii) 8 years after the date of enactment of this section.

''(2) SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—

''(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

''(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigrant Accountability Act of 2006, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

''(II) an alien who, within 5 years preceding the date of enactment of the Immigrant Accountability Act of 2006, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

''(aa) the termination of the qualifying relationship was connected to domestic violence; or

''(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

''(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

''(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

''(b) GROUNDS OF INADMISSIBILITY.—

''(1) APPLICABLE PROVISIONS.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following provisions of section 212(a) shall apply and may not be waived by the Secretary of Homeland Security under paragraph (3)(A):

''(A) Paragraph (1) (relating to health).

''(B) Paragraph (2) (relating to criminals).

''(C) Paragraph (3) (relating to security and related grounds).

''(D) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

''(2) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

''(3) WAIVER OF OTHER GROUNDS.—

''(A) IN GENERAL.—Except as provided in paragraph (1), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

''(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

''(4) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

''(5) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

''(6) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

''(c) TREATMENT OF APPLICANTS.—

''(1) IN GENERAL.—An alien who files an application under subsection (a)(1)(A) for adjustment of status, including a spouse or child who files for adjustment of status under subsection (b)—

''(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

''(B) shall be granted permission to travel abroad pursuant to regulation pending final adjudication of the alien's application for adjustment of status;

''(C) shall not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien commits an act which renders the alien ineligible for such adjustment of status; and

''(D) shall not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as employment authorization under subparagraph (A) is denied.

''(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that—

''(A) meets all current requirements established by the Secretary of Homeland Security for travel documents, including the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note); and

''(B) reflects the benefits and status set forth in paragraph (1).

''(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

''(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

''(d) APPREHENSION BEFORE APPLICATION PERIOD.—The Secretary of Homeland Security shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a) and who can establish prima facie eligibility to have the alien's status adjusted under that subsection (but for the fact that the alien may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 180 days of the application period to complete the filing of an application for adjustment, the alien may not be removed from the United States unless the alien is removed on the basis that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer or employee of such agency or bureau, may—

''(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a determination on the application;

''(B) make any publication through which the information furnished by any particular applicant can be identified; or

''(C) permit anyone other than the sworn officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

''(3) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.

''(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person to—

''(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States.

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

''(g) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

''(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

''(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States or is subject to reinstatement of removal under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

''(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detainment of the alien pending final adjudication of the application, unless the removal or detainment of the alien is based on criminal or national security grounds.

''(i) APPLICATION OF OTHER PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

''(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

''(2) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(3) JUDICIAL REVIEW.—

''(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative appellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

''(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

''(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

''(l) EMPLOYER PROTECTIONS.—

''(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

''(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

''(m) AUTHORIZATION OF FUNDS; FINES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

''(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the Department of Homeland Security for other applications for adjustment of status.

''(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling $2,000, but such amount shall not be required from an alien under the age of 18.

''(4) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and these payments in such account shall be available, without fiscal year limitation, such that—

''(A) 80 percent of such funds shall be available to the Department of Homeland Security for border security purposes;

''(B) 10 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

''(C) 10 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by immediate relatives of aliens applying for adjustment of status under this section.

''(n) MANDATORY DEPARTURE AND REENTRY.—Any alien who was physically present in the United States on January 7, 2004, who seeks to adjust status under this section, but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1), shall be eligible to depart the United States and to seek admission as a nonimmigrant or an immigrant alien described in section 245C.

''(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigrant Accountability Act of 2006, the Secretary of Homeland Security shall issue regulations to implement this section.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''245B. Access to Earned Adjustment.''.

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by subsection (b)(1), is further amended by inserting after section 245B the following: ''

''SEC. 245C. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—An alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

''(1) PRESENCE.—The alien shall establish that the alien—

''(A) was physically present in the United States on January 7, 2004;

''(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

''(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

''(2) EMPLOYMENT.—

''(A) IN GENERAL.—The alien shall establish that the alien—

''(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before January 7, 2004; and

''(ii) has been continuously employed in the United States since that date, except for brief periods of unemployment lasting not longer than 60 days.

''(B) EVIDENCE OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(II) an employer; or

''(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(I) bank records;

''(II) business records;

''(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

''(IV) remittance records.

''(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien shall establish that such alien—

''(i) is admissible to the United States, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBLE.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

''(B) fails to comply with any request for information by the Secretary of Homeland Security.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

''(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date on which the application form is first made available.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—

''(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(A) an acknowledgment made in writing and under oath that the alien—

''(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(ii) understands the terms of the terms of Deferred Mandatory Departure;

''(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(C) any false or fraudulent documents in the alien's possession.

''(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

''(B) register with the Secretary of Homeland Security at the time of departure; and

''(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

''(3) APPLICATION FOR READMISSION.—

''(A) IN GENERAL.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has departed from the United States in accordance with paragraph (2).

''(B) APPROVAL.—The Secretary may approve an application under subparagraph (A) during the period in which the alien is present in the United States under Deferred Mandatory Departure status.

''(C) US–VISIT.—An alien in Deferred Mandatory Departure status who is seeking admission as a nonimmigrant or immigrant alien may exit the United States and immediately reenter the United States at any land port of entry at which the US–VISIT exit and entry system can process such alien for admission into the United States.

''(D) INTERVIEW REQUIREMENTS.—Notwithstanding any other provision of law, any admission requirement involving in-person interviews at a consulate of the United States shall be waived for aliens granted Deferred Mandatory Departure status under this section.

''(E) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations under section 214 shall not apply to any alien who is admitted as a nonimmigrant under this paragraph.

''(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

''(A) deemed to have departed under this section upon the successful admission of the principal alien; and

''(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal

alien without regard to numerical caps related to such visas.

''(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

''(A) is granted an immigrant or nonimmigrant visa; and

''(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

''(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

''(A) shall not be subject to section 212(a)(9)(B); and

''(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

''(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

''(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

''(B) a fine of $2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

''(C) a fine of $3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

''(2) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

''(A) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

''(B) 8 years after the date of enactment of this section.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) IN GENERAL.—Subject subsection (f)(4), the spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this subsection (b)(2), is further amended by inserting after the item relating to section 245B the following:

''245C. Mandatory Departure and Reentry.''.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)'' after ''imposed''.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.''.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

SEC. 612. DEFINITIONS.

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of ''man-day'' under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days, whichever is less, during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least—

(I) 5 years of agricultural employment in the United States, for at least 100 work days or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 work days or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF INCOME TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required under paragraph (1)(A) by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been met; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) IRS COOPERATION.—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required under this paragraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and

have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this subtitle as ''qualified designated entities''.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an

alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2007 through 2010.

SEC. 614. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

CHAPTER 2—REFORM OF H–2A WORKER PROGRAM

SEC. 615. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218E to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season

in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218E through 218G.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''; and

(2) by inserting after section 218D, as added by section 601 of this Act, the following:

''SEC. 218E. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218F shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218F. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if

the alien is otherwise admissible under this section, section 218, and section 218E, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅙ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of an eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218G. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218E(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218E(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218E.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218E(b)(1).

''(2) The reimbursement of transportation as required under section 218E(b)(2).

''(3) The payment of wages required under section 218E(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218E(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218E(b)(4).

''(6) The motor vehicle safety requirements under section 218E(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit

in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218E or any rule or regulation pertaining to section 218 or 218E, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218E or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218E, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218H. DEFINITIONS.

''For purposes of this section, section 218, and sections 218E through 218G:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H-2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218E(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended—

(1) by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.''; and

(2) by inserting after the item relating to section 218D, as added by section 601 of this Act, the following:

''Sec. 218E. H–2A employment requirements.

''Sec. 218F. Procedure for admission and extension of stay of H–2A workers.

''Sec. 218G. Worker protections and labor standards enforcement.

''Sec. 218H. Definitions.''.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 616. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this subtitle and the amendments made by this subtitle, and a collection process for such fees from employers participating in the program provided under this subtitle. Such fees shall be the only fees chargeable to employers for services provided under this subtitle.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this subtitle, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218F of the Immigration and Nationality Act, as added by section 615 of this Act, and the provisions of this subtitle.

SEC. 617. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this subtitle and the amendments made by this subtitle.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this subtitle and the amendments made by this subtitle.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this subtitle and the amendments made by this subtitle.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218E, 218F, and 218G of the Immigration and Nationality Act, as added by section 615 of this Act, shall take effect on the effective date of section 615 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 618. REPORT TO CONGRESS.

Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218F(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218F(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 613(a);

(5) the number of such aliens whose status was adjusted under section 613(a);

(6) the number of aliens who applied for permanent residence pursuant to section 613(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 613(c).

SEC. 619. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 615 and 616 shall take effect 1 year after the date of the enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this subtitle.

Subtitle C—DREAM Act

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2006'' or the ''DREAM Act of 2006''.

SEC. 622. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 623. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 624. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 625, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under

paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary may not remove any alien who has a pending application for conditional status under this subtitle.

SEC. 625. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 626, an alien whose status has been adjusted under section 624 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this subtitle with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary shall terminate the conditional permanent resident status of any alien who obtained such status under this subtitle, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 624(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this subtitle.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary in accordance with this subtitle. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 624(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 626. RETROACTIVE BENEFITS.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 624(a)(1) and section 625(d)(1)(D), the Secretary may adjust the status of the alien to that of a conditional resident in accordance with section 624. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 625(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 625(d)(1) during the entire period of conditional residence.

SEC. 627. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary shall have exclusive jurisdiction to determine eligibility for relief under this subtitle, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this subtitle, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this subtitle.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY

SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 624(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 628. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this subtitle and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 629. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this subtitle to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this subtitle can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this subtitle with a designated entity, that designated entity, to examine applications filed under this subtitle.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 630. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that applications under this subtitle will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 631. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this subtitle shall be eligible only for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 632. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 624(a);

(2) the number of aliens who applied for adjustment of status under section 624(a);

(3) the number of aliens who were granted adjustment of status under section 624(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 625.

Subtitle D—Grant Programs to Assist Nonimmigrant Workers

SEC. 641. GRANTS TO SUPPORT PUBLIC EDUCATION AND COMMUNITY TRAINING.

(a) GRANTS AUTHORIZED.—The Assistant Attorney General, Office of Justice Programs, may award grants to qualified nonprofit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions of this Act and the amendments made by this Act.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under this section shall be used—

(A) for public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by the grantee in providing services related to this Act; and

(B) to educate, train, and support nonprofit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation.

(2) EDUCATION.—In addition to the purposes described in paragraph (1), grants awarded under this section shall be used to—

(A) educate immigrant communities and other interested entities regarding—

(i) the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary; and

(ii) the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(B) educate interested entities regarding the requirements for obtaining nonprofit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary;

(C) provide nonprofit agencies with training and technical assistance on the recognition and accreditation process; and

(D) educate nonprofit community organizations, immigrant communities, and other interested entities regarding—

(i) the process for obtaining benefits under this Act or under an amendment made by this Act; and

(ii) the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or under an amendment made by this Act.

(c) DIVERSITY.—The Assistant Attorney General shall ensure, to the extent possible, that the nonprofit community organizations receiving grants under this section serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs of the Department of Justice such sums as may be necessary for each of the fiscal years 2007 through 2009 to carry out this section.

SEC. 642. FUNDING FOR THE OFFICE OF CITIZENSHIP.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship and Immigration Foundation (referred to in this subtitle as the ''Foundation'').

(b) PURPOSE.—The Foundation shall be incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship of the Bureau of Citizenship and Immigration Services.

(c) GIFTS.—

(1) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(2) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship.

SEC. 643. CIVICS INTEGRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance to nonprofit organizations, including faith-based organizations, to support—

(1) efforts by entities certified by the Office of Citizenship to provide civics and English as a second language courses; and

(2) other activities approved by the Secretary to promote civics and English as a second language.

(b) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the Foundation for grants under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 644. STRENGTHENING AMERICAN CITIZENSHIP.

(a) SHORT TITLE.—This section may be cited as the ''Strengthening American Citizenship Act of 2006''.

(b) DEFINITION.—In this section, the term ''Oath of Allegiance'' means the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the United States, as prescribed in section 337(e) of the Immigration and Nationality Act, as added by subsection (h)(1)(B).

(c) ENGLISH FLUENCY.—

(1) EDUCATION GRANTS.—

(A) ESTABLISHMENT.—The Chief of the Office of Citizenship of the Department (referred to in this paragraph as the ''Chief'') shall establish a grant program to provide grants in an amount not to exceed $500 to assist legal residents of the United States who declare an intent to apply for citizenship in the United States to meet the requirements under section 312 of the Immigration and Nationality Act (8 U.S.C. 1423).

(B) USE OF FUNDS.—Grant funds awarded under this paragraph shall be paid directly to an accredited institution of higher education or other qualified educational institution (as determined by the Chief) for tuition,

fees, books, and other educational resources required by a course on the English language in which the legal resident is enrolled.

(C) APPLICATION.—A legal resident desiring a grant under this paragraph shall submit an application to the Chief at such time, in such manner, and accompanied by such information as the Chief may reasonably require.

(D) PRIORITY.—If insufficient funds are available to award grants to all qualified applicants, the Chief shall give priority based on the financial need of the applicants.

(E) NOTICE.—The Secretary, upon relevant registration of a legal resident with the Department, shall notify such legal resident of the availability of grants under this paragraph for legal residents who declare an intent to apply for United States citizenship.

(F) DEFINITION.—For purposes of this subsection, the term ''legal resident'' means a lawful permanent resident or a lawfully admitted alien who, in order to adjust status to that of a lawful permanent resident must demonstrate a knowledge of the English language or satisfactory pursuit of a course of study to acquire such knowledge of the English language.

(2) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) A lawful permanent resident of the United States who demonstrates English fluency, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State, will satisfy the residency requirement under subsection (a) upon the completion of 4 years of continuous legal residency in the United States.''.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to—

(A) modify the English language requirements for naturalization under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)); or

(B) influence the naturalization test redesign process of the Office of Citizenship (except for the requirement under subsection (h)(2)).

(d) AMERICAN CITIZENSHIP GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance for—

(A) efforts by entities (including veterans and patriotic organizations) certified by the Office of Citizenship to promote the patriotic integration of prospective citizens into the American way of life by providing civics, history, and English as a second language courses, with a specific emphasis on attachment to principles of the Constitution of the United States, the heroes of American history (including military heroes), and the meaning of the Oath of Allegiance; and

(B) other activities approved by the Secretary to promote the patriotic integration of prospective citizens and the implementation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including grants—

(i) to promote an understanding of the form of government and history of the United States; and

(ii) to promote an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States.

(2) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation, if the foundation is established under subsection (e), for grants under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FUNDING FOR THE OFFICE OF CITIZENSHIP.—

(1) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship Foundation (referred to in this subsection as the ''Foundation''), an organization duly incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship.

(2) DEDICATED FUNDING.—

(A) IN GENERAL.—Not less than 1.5 percent of the funds made available to the Bureau of Citizenship and Immigration Services from fees shall be dedicated to the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(i) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(ii) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(B) SENSE OF CONGRESS.—It is the sense of Congress that dedicating increased funds to the Office of Citizenship should not result in an increase in fees charged by the Bureau of Citizenship and Immigration Services.

(3) GIFTS.—

(A) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(B) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship, including the functions described in paragraph (2)(A).

(f) RESTRICTION ON USE OF FUNDS.—No funds appropriated to carry out a program under this subsection (d) or (e) may be used to organize individuals for the purpose of political activism or advocacy.

(g) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Chief of the Office of Citizenship shall submit an annual report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on the Judiciary of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a list of the entities that have received funds from the Office of Citizenship during the reporting period under this section and the amount of funding received by each such entity;

(B) an evaluation of the extent to which grants received under this section successfully promoted an understanding of—

(i) the English language; and

(ii) American history and government, including the heroes of American history, the meaning of the Oath of Allegiance, and an attachment to the principles of the Constitution of the United States; and

(C) information about the number of legal residents who were able to achieve the knowledge described under paragraph (2) as a result of the grants provided under this section.

(h) OATH OR AFFIRMATION OF RENUNCIATION AND ALLEGIANCE.—

(1) REVISION OF OATH.—Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a), by striking ''under section 310(b) an oath'' and all that follows through ''personal moral code.'' and inserting ''under section 310(b), the oath (or affirmation) of allegiance prescribed in subsection (e).''; and

(B) by adding at the end the following:

''(e)(1) Subject to paragraphs (2) and (3), the oath (or affirmation) of allegiance prescribed in this subsection is as follows: 'I take this oath solemnly, freely, and without any mental reservation. I absolutely and entirely renounce all allegiance to any foreign state or power of which I have been a subject or citizen. My fidelity and allegiance from this day forward are to the United States of America. I will bear true faith and allegiance to the Constitution and laws of the United States, and will support and defend them against all enemies, foreign and domestic. I will bear arms, or perform noncombatant military or civilian service, on behalf of the United States when required by law. This I do solemnly swear, so help me God.'.

''(2) If a person, by reason of religious training and belief (or individual interpretation thereof) or for other reasons of good conscience, cannot take the oath prescribed in paragraph (1)—

''(A) with the term 'oath' included, the term 'affirmation' shall be substituted for the term 'oath'; and

''(B) with the phrase 'so help me God' included, the phrase 'so help me God' shall be omitted.

''(3) If a person shows by clear and convincing evidence to the satisfaction of the Attorney General that such person, by reason of religious training and belief, cannot take the oath prescribed in paragraph (1)—

''(A) because such person is opposed to the bearing of arms in the Armed Forces of the United States, the words 'bear arms, or' shall be omitted; and

''(B) because such person is opposed to any type of service in the Armed Forces of the United States, the words 'bear arms, or' and 'noncombatant military or' shall be omitted.

''(4) As used in this subsection, the term 'religious training and belief'—

''(A) means a belief of an individual in relation to a Supreme Being involving duties superior to those arising from any human relation; and

''(B) does not include essentially political, sociological, or philosophical views or a merely personal moral code.

''(5) Any reference in this title to 'oath' or 'oath of allegiance' under this section shall be deemed to refer to the oath (or affirmation) of allegiance prescribed under this subsection.''.

(2) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance into the history and government test given to applicants for citizenship.

(3) NOTICE TO FOREIGN EMBASSIES.—Upon the naturalization of a new citizen, the Secretary, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

(A) renounced allegiance to that foreign country; and

(B) sworn allegiance to the United States.

(4) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 6 months after the date of enactment of this Act.

(i) ESTABLISHMENT OF NEW CITIZENS AWARD PROGRAM.—

(1) ESTABLISHMENT.—There is established a new citizens award program to recognize citizens who—

(A) have made an outstanding contribution to the United States; and

(B) were naturalized during the 10-year period ending on the date of such recognition.

(2) PRESENTATION AUTHORIZED.—

(A) IN GENERAL.—The President is authorized to present a medal, in recognition of

outstanding contributions to the United States, to citizens described in paragraph (1).

(B) MAXIMUM NUMBER OF AWARDS.—Not more than 10 citizens may receive a medal under this subsection in any calendar year.

(3) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike a medal with suitable emblems, devices, and inscriptions, to be determined by the President.

(4) NATIONAL MEDALS.—The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

(j) NATURALIZATION CEREMONIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Park Service, the Archivist of the United States, and other appropriate Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies.

(2) VENUES.—In developing the strategy under this subsection, the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(3) REPORTING REQUIREMENT.—The Secretary shall submit an annual report to Congress that includes—

(A) the content of the strategy developed under this subsection; and

(B) the progress made towards the implementation of such strategy.

SA 3425. Mr. FRIST proposed an amendment to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the end of the instructions, add the following amendment:

This section shall become effective one (1) day after the date of enactment.

SA 3426. Mr. FRIST proposed an amendment to amendment SA 3425 proposed by Mr. FRIST to the amendment SA 3424, proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike ''one (1) day'' and insert ''two days''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, April 5, 2006, at 9:30 a.m. to consider the following nominations pending before the Committee: Richard Capka to be Administrator, Federal Highway Administration; James Gulliford to be an Assistant Administrator, EPA; and William Wehrum to be an Assistant Administrator, EPA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 5, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to consider the nomination of Mr. W. Ralph Basham, of Virginia, to be Commissioner of Customs, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 5, 2006, at 9:30 a.m. to hold a hearing on U.S.-India Atomic Energy Cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, April 5, 2006, at 10 a.m. for a hearing titled, ''The Future of Port Security: The GreenLane Maritime Cargo Security Act.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 5, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on The Problem of Methamphetamine in Indian Country.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 5, 2006 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON BIOTERRORISM AND PUBLIC HEALTH PREPAREDNESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Bioterrorism and Public Health Preparedness, be authorized to hold a hearing during the session of the Senate on Wednesday, April 5, 2006 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on April 5, 2006, at 9:30 a.m., to receive testimony on the Department of Defense's role in combating terrorism, in review of the defense authorization request for fiscal year 2007 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Wednesday, April 5, 2006, at 2:30 p.m. to hold a hearing on Islamist Extremism in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Wednesday, April 5, 2006, at 2:30 p.m. for a hearing regarding ''Federal Funding of Museums.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GLOBAL CLIMATE CHANGE AND IMPACTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Global Climate Change and Impacts be authorized to meet on Wednesday, April 5, 2006, at 2:30 p.m., on The Current and Future Role of Science in the Asia Pacific Partnership.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, April 5 at 2:30 p.m. The purpose of the hearings is to review the 2005 Wildfire Season and the Federal Management Agencies' preparations for the 2006 Wildfire Season.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 5, 2006 at 3 p.m., in open session to receive testimony on improving contractor incentives in review of the Defense Authorization Request for Fiscal Year 2007.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE UNIVERSITY OF MARYLAND WOMEN'S BASKETBALL TEAM

Ms. MIKULSKI. Mr. President, on behalf of Senator SARBANES and myself, I call up a resolution which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 425) to commend the University of Maryland women's basketball

team for winning the 2006 National Collegiate Athletic Association Division I National Basketball Championship.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MIKULSKI. Mr. President, I offer this resolution on behalf of Senator SARBANES and myself.

Yes, the women's basketball team of the University of Maryland did win the women's basketball championship. I am here today to offer this resolution and to state I am so proud of the young women of this championship basketball team.

Led by Coach B, Brenda Frese, the Terps finished the season with a record of 34 wins and 4 losses, a fine record for any basketball team. It was especially sweet because those Terps defied all expert predictions.

Last night was a game for the history books. It went into overtime and, at the same time, was in overdrive.

I have to say a word about our worthy opponent, the Blue Devils. They were champions, too. What we saw on the court was fierce play, brilliant strategy, and the American value of sportsmanship.

But there is only one winner of each game, and although Duke played very well, our Maryland Lady Terps were, indeed, a story champion. The University of Maryland has a fine basketball tradition. The national championship team exemplifies all that is good about it. They are student athletes. They study 2 hours a day to make sure they are going to graduate and have fulfilled the American dream while they are out there playing the hoop dream.

Last night proved to the country their maturity, their grace under pressure, their skill, and their indomitable spirit.

The most outstanding player of the tournament, Laura Harper, held the Terps together, scoring in that first half when Duke was playing great defense. But in the second half, after Coach B's terrific motivational speech, they were out there and the colors shone through. Behind by 13 points with only 15 minutes left, they would not give up to pressure. Coach B called her team to the bench for a breather, and they returned to the court as if there were no deficit to overcome. The energy and the poise of the tri-captains—Shay Doron, scooting down that court, dashing through the defense of the Blue Devils, zinging in for her points and, at the same time, making most of her free throws; Crystal Langhorne, though boxed in, did a dramatic steal and surged ahead; and there was Charmaine Carr, backing up the team.

This pushed the team over the hump. As the clock wound down, the Terps had closed the gap and finally we were into overtime. Then a freshman guard, Kristi Toliver, came down the floor. They had her boxed in, yet from a dramatic distance she made a magical three-pointer with only 6 seconds left. And as the Terps fans know, it was fear the turtle. It showed that overtime is our time.

Freshman Marissa Coleman played superb basketball. We all know the outcome.

When the final buzzer sounded, the University of Maryland Terrapins were crowned the national champion.

I congratulate the players and the coach for the excitement of such a wonderful game and a wonderful season, and I congratulate them on their sportsmanship.

ELIZABETH DOLE and I had a bet on the outcome. By the way, you should know that in order to be in the final four you have to have a woman Senator here. There was LSU, Senator LANDRIEU; Senator DOLE had to have two teams, and there she was; and, of course, Senator BARB MIKULSKI with her Terrapins. Senator DOLE and I had a friendly bet, my crab cakes against her barbecue. We shared some barbecue together and some of their sweet tea, which is as nice as our friendship.

That is what sportsmanship is. Hats off to the Terps, and hats off to title IX that made it all possible.

I will not yield that championship next year.

Mr. SARBANES. Mr. President, it is with a profound sense of Maryland pride and pleasure that I rise in joining my Maryland colleague, Senator BARBARA MIKULSKI, in introducing a resolution congratulating the University of Maryland Terrapins for winning the 2006 NCAA Women's National Basketball Championship. Joining us in this effort is the Maryland House delegation, spearheaded by University of Maryland alum, Congressman STENY HOYER.

As our resolution highlights, this has been a terrific run for the women's basketball team. The team notched 33 wins, the most for any Division I men's or women's basketball team this season. Maryland was also the only team in the Nation to score more than 3,000 points. With this championship, the team became only the fourth school to secure championships in both men's and women's basketball, joining Stanford University, the University of Connecticut and the University of North Carolina.

Maryland, after its stellar regular season, was surprisingly selected as a No. 2 seed. The young team, which started two freshmen, two sophomores and one junior, seemed to thrive on the NCAA selection committee's underestimation. They played in, and won, six overtime games this season, including the positively thrilling come-from-behind-victory in the championship game. Down by thirteen points with fifteen minutes left in regulation, the Terps kept chipping away at the lead, capping it off with a terrific three point shot by freshman guard, Kristi Toliver, to tie the game at 70 with 6.1 seconds left in regulation.

In overtime the Lady Terps showed why they consider the extra period to be ''their time.'' Smothering defense and poise in shooting free throws secured the brilliant win down the final stretch.

The championship team consisted of senior guard/forward Charmaine Carr, freshman guard/forward Marissa Coleman, junior guard Shay Doron, junior guard Kalika France, sophomore forward/center Laura Harper, sophomore center/forward Crystal Langhorne, sophomore guard Christie Marrone, sophomore guard Ashleigh Newman, junior center Aurelie Noirez, sophomore forward/center Jade Perry, senior forward/center Angel Ross, freshman guard Kristi Toliver, and sophomore guard Sa'de Wiley-Gatewood. Their victory could not have been secured without the talented coaches and staff led by head coach Brenda Frese, assisted by coaches Jeff Walz, Erica Floyd, and Joanna Bernabei. Finally, I'd like to acknowledge the director of basketball operations, Mark Pearson and athletic director Debbie Yow.

On behalf of the State of Maryland, the Maryland congressional delegation and the University of Maryland, I ask my colleagues to join me in acknowledging the outstanding efforts of this amazing group of basketball players, coaches and staff.

Cheer the turtle!

Ms. MIKULSKI. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 425) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 425

Whereas the University of Maryland women's basketball team has worked vigorously, dynamically, and very enthusiastically to reach a championship level of play;

Whereas the students, alumni, faculty, and fans of the Terrapins should be congratulated for their commitment to the University of Maryland Terrapins national champion women's basketball team;

Whereas the student athletes, led by Crystal Langhorne and her teammates, Kristi Toliver, Freshman of the Year Marissa Coleman, Shay Doron, Laura Harper, Kalika France, Christie Marrone, Ashleigh Newman, Aurelie Noirez, Jade Perry, Angel Ross, Charmaine Carr, and Sa'de Wiley-Gatewood participated in this national championship season;

Whereas Head Coach Brenda Frese has recruited and taught the top talent in the United States to be student athletes at the University of Maryland and has been assisted by coaches Jeff Walz, Erica Floyd, Joanna Bernabei, and Director of Basketball Operations Mark Pearson, to imbue in these young women the values of teamwork, perseverance, and competitiveness;

Whereas the University of Maryland women's basketball team, also known as the ''Terps'', was able to defeat their 2 greatest foes en route to a first national championship in women's basketball;

Whereas the championship game was won in overtime after overcoming a deficit of 13 points with only 15 minutes remaining in regulation play; and

Whereas the grit, heart, and maturity of the 2006 University of Maryland Terrapins

women's basketball team will be the standard-bearer for years to come in the game of Women's College Basketball: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Maryland Terrapins women's college basketball team for winning the 2006 National Collegiate Athletic Association Division I National Championship;

(2) recognizes the breathtaking achievements of Head Coach Brenda Frese, her assistant coaches, and all of the outstanding players; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Brenda Frese, Head Coach of the national champions University of Maryland Terrapins and to the University of Maryland College Park President, Dr. Dan Mote for appropriate display.

UNANIMOUS CONSENT AGREEMENT—S. RES. 427 THRU S. RES. 433

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the consideration of S. Res. 427 through 433, which were submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 50TH ANNIVERSARY OF THE INTERSTATE SYSTEM

Mr. INHOFE. Mr. President, as Chairman and on behalf of my colleagues on the Environment and Public Works Committee, I urge support of this resolution to commemorate the 50th Anniversary of the Interstate System. The Committee as a whole would like to mark the momentous achievements made over the last 50 years that have provided for revolutionary advances in our nation's vital infrastructure. It is essential that Congress, just as it did in 1956, recognize the importance of continued investment in our nation's highways and the undeniable link between a robust economy and a vibrant national infrastructure.

Because of my work on SAFETEA–LU (Public Law 109–59) I have a better appreciation of just how visionary the authors of the Federal-Aid Highway Act of 1956 were when they laid out a network of interstate highways and devised a stable and reliable funding stream to pay for it. I am certain that at the time there were those who felt the plan was too ambitious, too expensive and consequently not a good use of scarce Federal dollars. I am sure all would agree that not only was it a good use of scarce Federal dollars, but that the nation has enjoyed a many-fold return on the expenditure.

Laying out the full interstate system—rather than a piecemeal of road segments—along with providing a dedicated funding source expedited construction and provided certainty. This certainty maximized the economic and mobility benefits of the system. Businesses and individuals knew that they could locate somewhere on the future interstate system and be connected to rest of the country.

The second essential element of the success of the highway program over the last 50 years has been the dependable funding stream for the interstate. In the absence of this dedicated funding source, it is my firm belief that investment in our nation's highways and bridges would be far less than has been the case. Without the relative certainty of funding and knowledge of the interstate's general location, the impacts on productivity and economic growth would have been dramatically less than we experienced.

The connectivity and mobility provided for both freight and people by our interstate system is unrivaled: and I believe was more than just a small part of the economic success enjoyed by the U.S. over the past 50 years. It is essential that we continue to make the necessary investment to fight congestion and maintain the mobility necessary to keep the economy growing.

I have always said that the federal government has two main functions: national defense and to provide infrastructure. Since one of the earliest justifications for the interstate system was to provide for national defense, the highway program is actually a perfect merger of the 2 most important functions of government.

For the last 50 years the gas tax has been deposited into the trust fund and used to construct and maintain our roads. In the past, the gas tax has been a reasonably good proxy for road use; and the trust fund has in recent history had sufficient receipts to fund the highway program. This is changing with the increase in fuel efficiency, highlighted by fuel-cell vehicles coming just over the horizon, and improved technology allows for improvements in how to collect the user fee. It is important to look forward to how we fund the highway program in the future because when the next highway bill is drafted, there will be no cushion of a cash balance left in the trust fund.

The current challenges facing the highway trust fund—and hence the highway program—will be very difficult to resolve and not unlike the challenges faced by the authors of the 1956 act. It will be up to policymakers to be as visionary as they were 50 years ago. A new vision is needed in what the highway program will stand for in the next 50 years and how to pay for it.

The resolution (S. Res. 427) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 427

Whereas, on June 29, 1956, President Dwight D. Eisenhower signed into law—

(1) the Federal-Aid Highway Act of 1956 (Public Law 84-627; 70 Stat. 374) to establish the 41,000-mile National System of Interstate and Defense Highways, later designated as the ''Dwight D. Eisenhower National System of Interstate and Defense Highways''; and

(2) the Highway Revenue Act of 1956 (Public Law 84-627; 70 Stat. 387) to create the Highway Trust Fund;

Whereas, in 1990, the National System of Interstate and Defense Highways was renamed the Dwight D. Eisenhower System of Interstate and Defense Highways to recognize the role of President Eisenhower in the creation of the Interstate Highway System;

Whereas that web of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on the lives of United States citizens;

Whereas the Interstate System has proven to be a vital tool for transporting people and goods from 1 region to another speedily and safely;

Whereas the use of the Interstate System has helped the Nation facilitate domestic and global trade, and has allowed the Nation to create unprecedented economic expansion and opportunities for millions of United States citizens;

Whereas the Interstate System has enabled diverse communities throughout the United States to come closer together, and has allowed United States citizens to remain connected to each other as well as to the larger world;

Whereas the Interstate System has made it easier and more enjoyable for United States citizens to travel to long-distance destinations and spend time with family members and friends who live far away;

Whereas the Interstate System is a pivotal link in the national chain of defense and emergency preparedness efforts;

Whereas the Interstate System remains 1 of the paramount assets of the United States, as well as a symbol of human ingenuity and freedom;

Whereas the anniversary of the Interstate System provides United States citizens with an occasion to honor 1 of the largest public works achievements of all time, and reflect on how the Nation can maintain the effectiveness of the System in the years ahead: Now, therefore, be it

Resolved that the Senate

(1) proclaims 2006 as the Golden Anniversary Year of the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(2) recognizes and celebrates the achievements of the Federal Highway Administration, State departments of transportation, and the highway construction industry of the United States, including contractors, designers, engineers, labor, materials producers, and equipment companies, for their contributions to the quality of life of the citizens of the United States; and

(3) encourages citizens, communities, governmental agencies, and other organizations to promote and participate in celebratory and educational activities that mark this uniquely important and historic milestone.

CONGRATULATING THE UNIVERSITY OF WISCONSIN MEN'S CROSS COUNTRY TEAM

The resolution (S. Res. 428) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 428

Whereas, on November 21, 2005, after finishing second for 3 consecutive years, the University of Wisconsin men's cross country

team (referred to in this preamble as the ''Badgers cross country team'') won the National Collegiate Athletic Association Division I Cross Country Championship in Terre Haute, Indiana, by placing first ahead of—

(1) the University of Arkansas; and

(2) Notre Dame University;

Whereas the Badgers cross country team secured its victory through the strong performances of its members, including—

(1) Simon Bairu, who won his second consecutive individual national championship with a time of 29:15.9;

(2) Chris Solinksy, who finished third in the championship race with a time of 29:27.8;

(3) Matt Withrow, who finished ninth in the race with a time of 29:50.7;

(4) Antony Ford, who finished 14th with a time of 29:55.2;

(5) Stuart Eagon, who finished 17th with a time of 30:05.3;

(6) Tim Nelson, who finished 18th with a time of 30:06.4; and

(7) Christian Wagner, who finished 58th with a time of 30:35.7;

Whereas the success of the season depended on the hard work, dedication, and performance of every player on the Badgers cross country team, including—

(1) Simon Bairu;
(2) Brandon Bethke;
(3) Bryan Culver;
(4) Stuart Eagon;
(5) Antony Ford;
(6) Ryan Gasper;
(7) Ben Gregory;
(8) Bobby Lockhart;
(9) Tim Nelson;
(10) Teddy O'Reilly;
(11) Tim Pierie;
(12) Joe Pierre;
(13) Ben Porter;
(14) Codie See;
(15) Chris Solinsky;
(16) Christian Wagner; and
(17) Matt Withrop;

Whereas, on October, 30, 2005, the Badgers cross country team won its seventh straight Big Ten championship with a record-setting score and margin of victory by sweeping the top four positions and eight of the top ten positions;

Whereas numerous members of the Badgers cross country team were recognized for their performance in the Big Ten Conference, including—

(1) Simon Bairu, who was named the Big Ten Men's Cross Country Athlete of the Year and won the Big Ten Conference individual title;

(2) Matt Withrop, who was named the Big Ten Men's Cross Country Freshman of the Year after finishing third in the conference meet; and

(3) Head Coach Jerry Schumacher, who was named the Big Ten Men's Cross Country Coach of the Year for the fifth consecutive year; and

Whereas Simon Bairu, Chris Solinsky, Matt Withrow, Antony Ford, Stuart Eagon, and Tim Nelson earned All-American honors: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin men's cross country team, Head Coach Jerry Schumacher and his coaching staff, Athletic Director Barry Alvarez, and Chancellor John D. Wiley for an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

CONGRATULATING THE UNIVERSITY OF WISCONSIN WOMEN'S HOCKEY TEAM

The resolution (S. Res. 429) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 429

Whereas on March 26, 2006, the University of Wisconsin Badgers won the women's Frozen Four in Minneapolis, Minnesota, with a victory over the 2-time defending champion University of Minnesota Golden Gophers by 3 to 0 in the championship game after having defeated St. Lawrence University by 1 to 0 in the semifinals;

Whereas Jinelle Zaugg of Eagle River, Wisconsin, scored 2 goals, Grace Hutchison of Winnetka, Illinois, scored a goal, and Jessie Vetter of Cottage Grove, Wisconsin, had 31 saves in the championship game, and recorded the first shut-out in the history of the women's Frozen Four championship games;

Whereas every player on the University of Wisconsin women's hockey team (Sara Bauer, Rachel Bible, Nikki Burish, Sharon Cole, Vicki Davis, Christine Dufour, Kayla Hagen, Tia Hanson, Meghan Horras, Grace Hutchins, Cyndy Kenyon, Angie Keseley, Heidi Kletzien, Erika Lawler, Alycia Matthews, Meaghan Mikkelson, Phoebe Monteleone, Emily Morris, Mikka Nordby, Bobbi-Jo Slusar, Jessie Vetter, Kristen Witting, and Jinelle Zaugg) contributed to the success of this team;

Whereas Sara Bauer and Bobbi-Jo Slusar were named to the All-Western Collegiate Hockey Association (known as ''WCHA'') First Team, Sharon Cole, Meaghan Mikkelson, and Meghan Horras were named to the All-WCHA Second Team, Bobbi-Jo Slusar was named the WCHA Defensive Player of the Year, and Sara Bauer was named the WCHA Player of the Year;

Whereas Coach Mark Johnson, who won a National Collegiate Athletic Association National (known as ''NCAA'') championship as a member of the University of Wisconsin men's 1977 championship team, was a star on the 1980 United States Olympic hockey team, which produced what is known as the ''Miracle on Ice'', and is one of the few people who have won a national championship as both a player and coach, and was named the WCHA Coach of the Year;

Whereas Sara Bauer and Bobbi-Jo Slusar were named first team All-Americans, and Sara Bauer won the Patty Kazmaier Award, as the Nation's top player;

Whereas Jessie Vetter won the 2006 NCAA Tournament's Most Outstanding Player award and was joined on the All-Tournament Team by Jinelle Zaugg and Bobbi-Jo Slusar;

Whereas the victory in the women's Frozen Four is the University of Wisconsin's first varsity women's hockey national championship, and the university's first women's team national championship since 1984; and

Whereas this victory ended a terrific season in which the University of Wisconsin women's hockey team outscored their opponents 155–51 and had a record of 34–4–1: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Wisconsin women's hockey team, the coaching staff, including Head Coach Mark Johnson, Athletic Director Barry Alvarez, and Chancellor John D. Wiley on an outstanding championship season; and

(2) respectfully requests the Clerk of the Senate to transmit an enrolled copy of this resolution to the Chancellor of the University of Wisconsin-Madison.

COMMENDING THE UNIVERSITY OF FLORIDA MEN'S BASKETBALL TEAM

The resolution (S. Res. 430) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 430

Whereas on Monday, April 3, 2006, the University of Florida men's basketball team (referred to in this preamble as the ''Florida Gators'') defeated the men's basketball team of the University of California, Los Angeles, by a score of 73–57, to win the 2006 National Collegiate Athletic Association Division I Basketball Championship;

Whereas that historic victory by the Florida Gators was a product of—

(1) an almost flawless and unselfish team performance; and

(2) individual player excellence and versatility from members of the Florida Gators;

Whereas that victory marked the first national basketball championship victory for the University of Florida, and occurred 10 years after the school won the National Collegiate Athletic Association Division I Football Championship;

Whereas the head coach of the Florida Gators, Billy Donovan, became the second youngest coach to win the national championship, after leading the Florida Gators to a school-best, 33–6 record;

Whereas University of Florida sophomore Joakim Noah was chosen as the most outstanding player of the Final Four;

Whereas each player, coach, trainer, and manager dedicated his or her time and effort to ensuring that the Florida Gators reached the pinnacle of team achievement; and

Whereas the families of the players, students, alumni, and faculty of the University of Florida, and all of the supporters of the University of Florida, are to be congratulated for their commitment to, and pride in, the basketball program at the University of Florida; Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Florida men's basketball team for winning the 2006 National Collegiate Athletic Association Division I Basketball Championship;

(2) recognizes the achievements of all of the players, coaches, and support staff who were instrumental in helping the University of Florida men's basketball team win the 2006 National Collegiate Athletic Association Division I Basketball Championship, and invites those individuals to the United States Capitol Building to be honored; and

(4) respectfully requests the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the University of Florida for appropriate display; and

(B) the coach of the University of Florida men's basketball team, Billy Donovan.

ENDANGERED SPECIES DAY

The resolution (S. Res. 431) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 431

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray

whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas two-thirds of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical for habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 11, 2006, as ''Endangered Species Day''; and

(2) encourages—

(A) educational entities to spend at least 30 minutes on Endangered Species Day teaching and informing students about threats to, and the restoration of, endangered species around the world, including the essential role of private landowners and private stewardship to the protection and recovery of species;

(B) organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate on educational information for use in schools; and

(C) the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, through written affidavit, and representation in an attorney fee dispute proceeding pending before a State bar arbitration committee in Nevada. The distinguished Democratic Leader, Senator REID, has been asked to provide an affidavit in this proceeding. Senator REID believes that he has relevant first-hand knowledge, acquired in his capacity as a Senator, and would like to cooperate with this request.

Accordingly, this resolution would authorize Senator REID to provide an affidavit in this matter with representation by the Senate Legal Counsel.

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 432

Whereas, in E.M. Gunderson v. Neil G. Galatz, File No. 04–106, pending before the Fee Dispute Arbitration Committee of the State Bar of Nevada, the petitioner has requested an affidavit from Senator Harry Reid;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Senator Harry Reid is authorized to testify in the case of E.M. Gunderson v. Neil G. Galatz, except when his attendance at the Senate is necessary for the performance of his legislative duties and except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Harry Reid in connection with the testimony authorized in section one of this resolution.

HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Mr. DURBIN. Mr. President, today I introduced this resolution, S. Res. 433, honoring the American Society for the Prevention of Cruelty to Animals on the 140th Anniversary of their founding.

The dedicated employees and volunteers of the ASPCA have provided shelter, medical care, and placement for abandoned and abused animals for more than a century.

The ASPCA is the oldest animal welfare organization in North America. Henry Bergh began the organization in 1866 as a platform to prevent the cruel beating of carriage horses in New York City. Today, the ASPCA is a national organization that provides services to millions of people and their animals. The success of the organization has made the term ASPCA synonymous with ''animal rescue,'' ''animal shelter,'' ''animal adoptions'' and ''humane education.''

For over 25 years, my home State of Illinois has hosted the ASPCA's Animal Poison Control Center. The Center is staffed 24 hours a day, 365 days a year by numerous veterinarians and toxicologists who provide a unique and valuable service to pet owners and veterinarians. Each year, tens of thousands of animal lovers concerned about the health of their pets contact the Animal Poison Control Center seeking assistance on how to relieve their poisoned animals' pain and suffering. I am proud to have the Animal Poison Control Center located in the State of Illinois.

I ask my colleagues in the Senate to join me in congratulating the staff, directors and volunteers of the ASPCA on a successful 140 years of service.

The resolution (S. Res. 433) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 433

Whereas April 10, 2006, marks the 140th anniversary of the founding of The American Society for the Prevention of Cruelty to Animals (referred to in this preamble as ''ASPCA'');

Whereas ASPCA has provided services to millions of citizens of the United States and their animals since Henry Bergh established the society in New York City in 1866;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all of God's creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as ''Prevention of Cruelty to Animals Month'', its Animal Poison Control Center, and its promotion of humane animal treatment through programs dedicated to law enforcement, education, shelter outreach, legislative affairs, counseling, veterinary services, and behavioral training, has provided invaluable services to the citizens of the United States and their animals: Now, therefore, be it

Resolved, That the Senate—

(1) honors The American Society for the Prevention of Cruelty to Animals for its 140 years of service to the citizens of the United States and their animals; and

(2) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the president of The American Society for the Prevention of Cruelty to Animals.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to S. Res. 371.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 371) designating July 22, 2006, as ''National Day of the American Cowboy.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 371) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 371

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in the culture and economy of the United States;

Whereas approximately 800,000 ranchers are conducting business in all 50 States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in the United States;

Whereas membership in rodeo and other organizations encompassing the livelihood of a cowboy transcends race and sex and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge the ongoing commitment of the United States to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 22, 2006, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

APPOINTMENT OF PHILLIP FROST AS A CITIZEN REGENT

REAPPOINTMENT OF ALAN G. SPOON AS A CITIZEN REGENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate en bloc consideration of H.J. Res. 81 and H.J. Res. 82, which were received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolutions by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 81) providing for the appoint of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution.

A joint resolution (H.J. Res. 82) providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolutions.

Mr. FRIST. Mr. President, I ask unanimous consent that the joint resolutions be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions (H.J. Res. 81 and H.J. Res. 82) were read the third time and passed.

ORDERS FOR THURSDAY, APRIL 6, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, April 6. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2454, the border security bill, with the time from 9:30 a.m. until 10:30 a.m. equally divided between the managers or their designees, and the Senate then proceed to a vote on the motion to invoke cloture, as under the previous order; further, I ask that the mandatory quorum under rule XXII be waived and that second-degree amendments be filed at the desk no later than 10:30 a.m., pursuant to rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, just a few minutes ago I filed two cloture motions on the border security bill and four cloture motions on Executive Calendar nominations. Under the provisions of rule XXII, we will have several votes on Friday unless an agreement can be reached which we will consider tomorrow. Tomorrow morning at 10:30 a.m. we will have a cloture vote on the Specter substitute amendment, which was filed by the minority leader, with the other cloture vote on nominations. We still have a lot of work to be done before we leave at the end of the week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:40 p.m., adjourned until Thursday, April 6, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 5, 2006:

DEPARTMENT OF STATE

ERIC M. BOST, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SOUTH AFRICA.

LISA BOBBIE SCHREIBER HUGHES, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

DAVID M. ROBINSON, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CO-OPERATIVE REPUBLIC OF GUYANA.

EARL ANTHONY WAYNE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ARGENTINA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

THOMAS E. BALDWIN, 0000
LEE C. BAUER, 0000
JAMES A. CAPPS, JR., 0000
PAUL B. CHRISTIANSON, 0000
PAUL D. GOVEN, 0000
STEVEN A. HOCKING, 0000
VINCENT T. JONES, 0000
HALIFAX C. KING, 0000
RAYMOND M. KLEIN, 0000
LISA A. KUHAR, 0000
JOHN F. KURZAK, 0000
STEVEN T. LAMB, 0000
FREDRIC A. MARKS, 0000
WILLIAM A. POLLAN, 0000
RONALD D. POOLE, 0000
CAROL S. RAMSEY, 0000
ANTHONY M. RIZZO, 0000
DIANA J. SCHULZ, 0000
GERALD R. SCHWARTZ, 0000
STEPHEN J. SHARP, 0000
JOHN C. STONER, 0000
FRANCIS A. STRATFORD, JR., 0000
MARIA M. TIAMSONBEATO, 0000
RICHARD A. WILLIAMS, 0000

To be lieutenant colonel

FEDERICO AGUILAR, 0000
KIRK W. ALVORD, 0000
FRANK J. ARCHBALD, 0000
MICHAEL A. ARNOLD, 0000
MATTHEW E. BANNON, 0000
JIMMY L. BARROW, 0000
DANIEL P. BATES, 0000
ROBERT W. BECK, 0000
LAURA K. BELKNAP, 0000
STEPHEN F. BELL, 0000
FREDERICK L. BELLAMY, 0000
THOMAS C. BERRY, 0000
DEBORAH G. BERTRAND, 0000
CHRISTOPHER D. BINGHAM, 0000
DANIEL O. BLACK, 0000
JEFFREY D. BODIN, 0000
HUBERT C. BOWDITCH, 0000
RAY BOWEN, 0000
DAVID J. BOWERS, 0000
DAVID N. BRAWLEY, 0000
DONALD S. BROCE, 0000
LORIE C. BROSCH, 0000
JAMES W. BROWN, 0000
JERRY D. BROWN, 0000
ROY C. BROWN, 0000
DOUGLAS J. BURGOYNE, 0000
ALLAN C. BUSHNELL, 0000
JOYCE CADY, 0000
WILLIAM F. CAPPIELLO, 0000
JAMES D. CARLIN, 0000
LINDA M. CHRISTIANSEN, 0000
ALAN C. CHUBB, 0000
JOSE M. CINTRON, 0000
JOSEPH G. CLEMONS, 0000
STEPHEN D. CLUTTER, 0000
JAMES W. COCKERILL, 0000
CHRISTOPHER J. COHOES, 0000
JOSEPH G. CONIGLIO, JR., 0000
FRANK W. CORLEY III, 0000
JESUS CORTESMORALES, 0000
BRIAN D. COX, 0000
RONALD O. CRANDALL, 0000
ROBERT J. CRAVEN, 0000
JOHN M. CURRY, 0000
ROMAN B. CYBAK, 0000
JEANINE M. CZECH, 0000
CARMELLA L. DADDEZIO, 0000
HECTOR F. DAVILA, 0000
RENE P. DECHAINE, 0000
KENNETH J. DENMAN, JR., 0000
ROLLIN S. DIXON, 0000
MARK G. DRINKARD, 0000
JOSEPH A. DUFF, 0000
AARON J. DYESS III, 0000
TEDDY L. ELLIS, 0000
ALFRED C. EMMEL, 0000
DANIEL J. EPRIGHT, 0000
CHRISTOPHER C. ERICKSON, 0000
RICHARD B. EVANS, 0000
HAROLD H. FAIN, JR., 0000
EDWARD E. FIRNBERG, 0000
ROBERT J. FISCHER, 0000
CARLOS L. FLEMING, 0000
JOHN F. FORBES, 0000
KENNETH M. FRANCIS, 0000
JAMES W. FREESE, 0000
DAVID W. GAPP, 0000
MARCO GARCIAGALVEZ, 0000
JAMES R. GEAR, 0000
DAVID J. GEARHART, 0000
ROGER I. GERRARD, 0000
ANTHONY T. GHIM, 0000
JOHN A. GIBBONS, JR., 0000
WILLIAM C. GIBBONS, 0000
WILLIAM A. GIBSON, 0000
JAMES L. GIEM, 0000
ATUL K. GOEL, 0000
DANIEL V. GOERES, 0000
ANTHONY J. GORETSKI, JR., 0000
ROBERT J. GRANT, 0000
DEWEY M. GRAY, 0000
JAMES S. GREEN, 0000
STEVEN A. GREENE, 0000
RANDALL G. GRIFFIN, 0000
CHARLES A. GRIMES, 0000
ARNE F. GRUSPE, 0000
PAUL W. HAAG, 0000
NABIL M. HABIB, 0000
PHILLIP W. HALCUM, 0000
ZOE M. HALE, 0000
DIAN M. HALL, 0000
JOHN F. HAMILTON, JR., 0000
AMY E. HAMPTON, 0000
TIMOTHY S. HANNUS, 0000
TIMOTHY W. HARRIS, 0000
JAMES L. HAWKINS, 0000

TIMOTHY R. HEBEL, 0000
MARK R. HENDERSON, 0000
JOSEPH M. HEYSER, 0000
JOHN W. HILTERMAN, JR., 0000
CLAUDE A. HODGES, JR., 0000
MICHAEL W. HODGES, 0000
PETER A. HOLZGANG, 0000
PAUL J. HOUGE, 0000
THOMAS D. HUMPHRIES, 0000
GARY L. HURWITZ, 0000
STEPHEN B. IRVIN, 0000
JOHN G. JERAKIS, 0000
ANNETTE JOHNSONZIESKE, 0000
CHARLES A. JONES, JR., 0000
RANDALL L. JONES, 0000
GERALD P. KABAN, 0000
TIMOTHY W. KACZMAR, 0000
JAMES G. KAHRS, 0000
ANWAR J. KALEEMULLAH, 0000
THOMAS F. KELLY, 0000
TIMOTHY M. KERSEY, 0000
GEORGE J. KRAKIE, 0000
MARK KRAUTHEIM, 0000
JAMES F. KROMBERG, 0000
JOSEPH F. KUHLMANN III, 0000
DANIEL N. KULUND, 0000
MICHAEL G. LABOUBE, 0000
ANDREW E. LAGER, 0000
GORDON S. LANDSMAN, 0000
BARBARA J. LARCOM, 0000
CHRISTOPHER S. LAURITZEN, 0000
ROBERT D. LEFKOWITZ, 0000
ROBERT E. LEHMAN, 0000
THOMAS A. LERNER, 0000
JEFFREY H. LIEBERMAN, 0000
SHERRILL F. LINDQUIST, 0000
FORREST D. LITTLEBIRD, 0000
LARRY L. LITTRELL, 0000
BLAKE D. LOLLIS, 0000
TIMOTHY L. LONGACRE, 0000
JOSEPH A. LOPEZ, 0000
JOSE W. LOPEZALAMO, 0000
JEFFREY S. LORENZ, 0000
WILLIAM R. LOSQUADRO, 0000
ELIZABETH H. LOWE, 0000
ROBERT E. LUTHY, 0000
JAMES P. LYNCH, 0000
MICHAEL L. LYONS, 0000
VICTOR H. MACINTOSH, 0000
SCOTT B. MACKIE, 0000
CRAIG A. MAHAN, 0000
ROBERT F. MALACRIDA, 0000
FELIX MAMANI, 0000
ROBERT C. MARSHALL, 0000
MICHAEL J. MASTERSON, 0000
RICHARD J. MAYERS, 0000
PAUL R. MCCARVER, 0000
MARK A. MCCLAIN, 0000
BRIAN F. MCCRARY, 0000
SCOTT L. MCCREEDY, 0000
DONALD A. MCGREGOR, 0000
MARTIN J. MCNAMARA, 0000
CHRISTOPHER R. MCNULTY, 0000
MARK T. MEANS, 0000
JIMMIE WAYNE MEEK, 0000
RICHARD A. MEYER, 0000
WILLIAM G. MEYER, 0000
MARK B. MIDDEN, 0000
DAVID B. MILLIGAN, 0000
DAVID G. MINTO, 0000
JAMES R. MOORE, 0000
NANCY C. MOTYKA, 0000
OMAR P. MULLA, 0000
LINDA A. MURAKATA, 0000
GLEN K. NAGASAWA, 0000
DARREN I. NEAL, 0000
MICHAEL A. NECKERMAN, 0000
MARK D. NOKELEY, 0000
CRAIG J. NOWICKI, 0000
JOHN OCONNELL, 0000
JOHN J. OKRZESIK, 0000
CHARLES E. OSTEEN, 0000
ARLIE S. OVERFIELD, 0000
ALLISON E. PALMER, 0000
KERRY B. PATTERSON, 0000
TODD D. PENNINGTON, 0000
MATTHEW E. PETERS, 0000
RONALD L. PEVETO, 0000
ROGER A. PIEPENBRINK, 0000
RICHARD D. QUINTANA, 0000
MICHAEL E. RADCLIFFE, 0000
SHEELA RAJAN, 0000
RAUL E. RAMIREZACEVEDO, 0000
DENNIS R. RAMSEY, 0000
MICHAEL G. RAPPA, 0000
DAVID K. RATCLIFFE, 0000
DAVID GERARD REESON, 0000
JAMES S. REITMAN II, 0000
CRAIG H. RICE, 0000
RICHARD R. RIDDLE, 0000
BARRY C. RIES, 0000
STEVEN E. RITTER, 0000
DAVID L. ROBINSON, 0000
JEFFREY A. ROETZEL, 0000
NEIL E. ROGHAIR, 0000
JOSE E. ROMAN, 0000
DONALD L. RYAN, 0000
GIORGIO SANTAMBROGIO, 0000
STEVEN A. SAUNDERS, 0000
BRUCE M. SAYRE, 0000
PAUL E. SCHLEIER, 0000
RICHARD J. SCHROETER, 0000
ERIC R. SCHWARZ, 0000
SHOBHA SEM, 0000
JEFFREY J. SEVELA, 0000
MARTIN K. SHAFFER, 0000
MARK D. SHEEHAN, 0000
MARY E. SHEPHERD, 0000
CHARLES A. SHURLOW, 0000
BRUCE J. SIEDLECKI, 0000
MARK A. SILVER, 0000
MICHAEL P. SKEHAN, 0000
DANIEL S. SMITH, 0000
DAVID L. SMITH, 0000
DAVID M. SMITH, 0000
DOUGLAS R. SMITH, 0000
MATTHEW C. SMITH, 0000
THOMAS R. SPICER, 0000
ROBERT A. STARKS, 0000
ROBERT E. STONE, 0000
MARK P. STUCKY, 0000
STEVEN A. SWENSON, 0000
DAVID R. SZELES, 0000
JAKE M. TAYLOR, 0000
GUILLERMO J. TELLEZ, 0000
STEVEN D. THALMANN, 0000
CHARLES W. THIE, 0000
GARRETT J. THOMPSON, 0000
MICHAEL D. THORNSBERRY, 0000
MICHAEL S. TINNON, 0000
JAMES V. TOBIN, 0000
GEORGE F. TORRES, 0000
LUTHER S. TURNER III, 0000
LUKE UNDERHILL, 0000
MARK H. VANBENTHEM, 0000
ROSCOE O. VANCAMP, 0000
JAMES L. VANDERZYL, 0000
ROBERT K. VANDEVELDE, 0000
GEORGE A. WADDELL, 0000
ADONICA L. WALKER, 0000
CHRISTOPHER L. WALKER, 0000
MARK SPANGLER WALLACE, 0000
JAMES W. WALTER, 0000
STEVEN D. WEBER, 0000
DAVID F. WELSH, 0000
MICHAEL J. WERCINSKI, 0000
BRIAN R. WEST, 0000
CHRISTOPHER N. WHEATLEY, 0000
DANA J. WINDHORST, 0000
TY R. WITT, 0000
PAUL M. WITTSACK, 0000
DONALD R. WOLOSZYN, 0000
MICHAEL J. WRIGHT, 0000
KENNETH E. WYATT, 0000
CHRISTOPHER K. WYSZYNSKI, 0000
LUN S. YAN, 0000
GLENN E. YURGIL, 0000
SCOTT D. ZALESKI, 0000
MICHAEL C. ZECHA, 0000

To be major

ALDRU T. AARON, 0000
KATHRYN L. AASEN, 0000
STEVEN M. ABBATE, 0000
GARY L. ABBOTT, 0000
JAMES R. ABBOTT, 0000
KENT D. ABBOTT, 0000
JAVIER A. ABREU, 0000
SAMEH G. ABUERREISH, 0000
JAMES R. ACKERMAN III, 0000
CRAIG L. ADAMS, 0000
GRETCHEN M. ADAMS, 0000
JAYE E. ADAMS, 0000
LUTHER M. ADAMS, 0000
JENNIFER L. ADKINS, 0000
DANIEL J. ADLER, 0000
MARIO A. AGUILAR, 0000
GEORGE E. AKINS, 0000
DEBORAH D. ALBRIGHT, 0000
DAVID J. ALEXANDER, 0000
AMANDA E. ALFORD, 0000
TALIB Y. ALI, 0000
PATRICK F. ALLAN, 0000
JAMES B. ALLEN, 0000
JAY R. ALLEN, 0000
MELANIE D. ALLGEYER, 0000
TIMOTHY C. ALLMAN, 0000
MICHAEL D. ALMALEH, 0000
ZENEN T. ALPUERTO, 0000
RUSSELL R. ALSTON, 0000
DAURI Z. ALVAREZ, 0000
ADAM M. ANDERSON, 0000
BRETT C. ANDERSON, 0000
CHRISTOPHER S. ANDERSON, 0000
MARJORIE P. ANDERSON, 0000
PAULA E. ANDERSON, 0000
DINA M. ANDREOTTI, 0000
BRETT M. ANDRES, 0000
MARIA M. ANGLES, 0000
WILLIAM A. ANKNEY, 0000
LLOYD H. ANSETH, 0000
DOUGLAS E. ANTCLIFF, 0000
SHERYL L. ANTHOS, 0000
KENNETH M. APPEZZATO, 0000
FEDERICO C. AQUINO, JR., 0000
MICHAEL C. ARAUJO, 0000
LUIS M. ARES, 0000
LENA M. ARVIDSON, 0000
JORGE ARZOLA, 0000
GUY C. ASHER, JR., 0000
DIANE M. ASLANIS, 0000
BROADUS Z. ATKINS, 0000
THOMAS A. AUGUSTINE III, 0000
MATTHEW J. AUNGST, 0000
CARLOS AYALA, 0000
MEHDI AZADI, 0000
KERI A. BAACKE, 0000
GILBERT M. BACA, 0000
JAN C. BACA, 0000
MEDHAT G. BADER, 0000
PETER SUNG JAE BAEK, 0000
WILLIAM R. BAEZ, 0000
CARL W. BAKER III, 0000
SHAROLYN H. BALDWIN, 0000
ELLEN W. BALLERENE, 0000
KIMBERLY M. BALOGH, 0000
KEVIN B. BARKER, 0000
STEPHEN L. BARNES, 0000
CHRISTOPHER C. BARNETT, 0000
PHILIP R. BARONE, 0000
JEFFREY W. BARR, 0000
JOSE E. BARRERA, 0000
RUSSELL H. BARTLETT, JR., 0000
SHERREEN G. BATTS, 0000
KRISTEN BAUER, 0000
ERIC R. BAUGH, JR., 0000
STEVEN M. BAUGHMAN, 0000
ROBERT ANDREW BEALE, 0000
KRISTEN J. BEALS, 0000
ETHAN A. BEAN, 0000
PETRAN J. BEARD, 0000
SHERYL M. BEARD, 0000
VIKHYAT S. BEBARTA, 0000
RACHEL L. BECK, 0000
DEVIN P. BECKSTRAND, 0000
MARY ANN BEHAN, 0000
AMY L. BELISLE, 0000
JASON S. BELL, 0000
JEFFREY D. BELL, 0000
ROSULA A. BELL, 0000
THOMAS W. BENDER III, 0000
LANE M. BENEFIELD, 0000
ALEC BENINGFIELD, 0000
MICHAEL B. BENSON, 0000
SCOTT D. BENTON, 0000
JENNIFER L. BEPKO, 0000
STEPHEN J. BEPKO, 0000
JAMES W. BERGSTROM, JR., 0000
ROBERT J. BERKOWITZ, 0000
GARLAND K. BERRY, 0000
JULIE ANN BERRY, 0000
HEIDI C. BERTRAM, 0000
DANIEL L. BERTRAND, 0000
RICARDO J. BERUVIDES, 0000
ANTHONY I. BEUTLER, 0000
ANTHONY C. BEVIS, 0000
DAVID A. BIDDLE, 0000
JEFFREY J. BIDINGER, 0000
DAVID G. BIGGAR, 0000
WILLIAM J. BILTON, 0000
CHRISTOPHER T. BIRD, 0000
ALEXANDER B. BLACK, 0000
BRANDON R. BLACK, 0000
EDWARD P. BLACK, 0000
JASON T. BLACKHAM, 0000
CHRISTOPHER A. BLACKWELL, 0000
REBECCA SMILEY BLACKWELL, 0000
RICHARD E. BLAIR, 0000
CELESTE S. BLANKEN, 0000
MARVIN D. BLANKENSHIP, 0000
JAMES A. BLEDSOE, 0000
DAVID E. BLOCKER, 0000
ERIK A. BOATMAN, 0000
GEORGE L. BOCK, JR., 0000
STEPHEN R. BODEN, 0000
ROBERT K. BOGART, 0000
KEVIN J. BOHNSACK, 0000
HENRY A. BOILINI, 0000
KURT R. BOLIN, 0000
BRANT W. BOLING, 0000
WILLIAM S. BOLLING, 0000
MICHAEL I. BOND, 0000
TRENA K. BONDE, 0000
TIMOTHY D. BONNIWELL, 0000
DANIEL J. BONVILLE, 0000
SCOTT G. BOOK, 0000
KENNETH J. BOOMGAARD, 0000
ROBERT K. BOONE, 0000
RALPH W. BOOTH, 0000
CHRISTOPHER J. BORCHARDT, 0000
CRAIG D. BOREMAN, 0000
ALEX P. BORMANN, 0000
JOHN H. BORN, 0000
GREGORY CLARK BORSTAD, 0000
ALOK K. BOSE, 0000
PAUL BOSTROM, 0000
LARS O. BOUMA, 0000
STEVEN P. BOWERS, JR., 0000
WARREN P. BOWES III, 0000
ANDREW N. BOWSER, 0000
LINDA R. BOYD, 0000
BRENT J. BRADLEY, 0000
KIMBERLY R. BRADLEY, 0000
BRYCE H. BRAKMAN, 0000
STACEY L. BRANCH, 0000
SCOTT C. BRANDON, 0000
JOHN R. BRAUN, 0000
LAZARO O. BRAVO, JR., 0000
MICHAEL J. BRAZIL, 0000
DORON BRESLER, 0000
BARTON C. BREZINA, 0000
MATTHEW A. BRIDGES, 0000
RANDALL E. BRISTOL, 0000
JEFF BROBERG, 0000
CHRISTOPHER S. BROCKMAN, 0000
WILLIAM R. BRODERICK, 0000
LAURA A. BRODHAG, 0000
ROBERT A. BROM, 0000
MATTHEW J. BRONK, 0000
MITCHELL M. BROOKS, 0000
APRIL S. BROOME, 0000
JAMIE L. BROUGHTON, 0000
DARIN S. BROWN, 0000
JODY L. BROWN, 0000
STEVEN OWEN BROWN, 0000
JOSEPH V. BROWNE, 0000
STEVEN S. BRUMFIELD, 0000
ERIC C. BRUNO, 0000
KEVIN BRYAN, 0000
RICHARD A. BUCK, 0000

HEIDI BUCKINGHAM, 0000
FRANCIS P. BUCKLEY III, 0000
RAFAEL BURGOS, 0000
EVE M. BURNS, 0000
CRAIG M. BURNWORTH, 0000
DAVID M. BUSH, 0000
DAVID S. BUSH, 0000
GARY J. BUTCHKO, 0000
JONATHAN W. BUTTRAM, 0000
JAMES M. BYRNE, 0000
MARJORIE M. CABELL, 0000
DAVID A. CAIN, 0000
RAELYN M. CALENDINE, 0000
COLLEEN L. CALLAGHAN, 0000
ROBERT S. CALLAHAN, 0000
TODD W. CALLAHAN, 0000
REX T. CALVERT, 0000
MARK E. CAMPBELL, 0000
NICOLO R. CANDELA, 0000
SOTO DAMARIES CANDELARIO, 0000
WHITNEY J. CANFIELD, 0000
MICHAEL W. CANTRELL, 0000
MICHAEL K. CAO, 0000
MADHAVI F. CAPOCCIA, 0000
RAFAEL I. CARBONELL, 0000
JOSHUA P. CAREY, 0000
DAWN E. CARLSON, 0000
RENEE D. CARLSON, 0000
DAVID H. CARNAHAN, 0000
MAURICIO C. CAROTA, 0000
MICHAEL E. CAROTHERS, 0000
MATTHEW A. CARRELL, 0000
MARK P. CARROLL, JR., 0000
MARK R. CARTER, 0000
LINDA A. CASE, 0000
JEFFERY A. CASEY, 0000
HEATHER R. CASSELL, 0000
WILLIAM D. CASSIDA, 0000
BRETT J. CASSIDY, 0000
ROSALIE A. CASTILLO, 0000
ERIC L. CATHEY, 0000
TOBIN W. CAVALLARI, 0000
RYAN C. CECIL, 0000
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JANE W. CHAN, 0000
JOHN C. CHANEY, 0000
LI ING CHANG, 0000
ARTEMIO C. CHAPA, 0000
DANIEL A. CHARLICK, 0000
STEPHEN H. CHARTIER, 0000
MOLINDA M. CHARTRAND, 0000
ALBERT Y. CHEN, 0000
NAILI A. CHEN, 0000
JILL A. CHERRY, 0000
WILLIE T. CHI, 0000
CINDI M. CHIARAVALLOTI, 0000
JASON J. CHO, 0000
HAEOH CHOE, 0000
JOHN H. CHOE, 0000
CHOL H. CHONG, 0000
YUN C. CHONG, 0000
SEAN M. CHOQUETTE, 0000
KEVIN CHOU, 0000
DIXON L. CHRISTIAN, 0000
KIMBERLY Y. CHRISTIAN, 0000
MICHAEL J. CHUNG, 0000
DANIEL G. CHURCH, 0000
EMILY C. CHURCH, 0000
RICHARD A. CIARAMELLA, 0000
BRYCHAN K. CLARK, 0000
DARRELL H. CLARK, 0000
DENNIS P. CLARK, 0000
KEITH L. CLARK, 0000
NORMAN A. CLARK, 0000
ANDREW L. M. CLARKE, 0000
GARY W. CLAUSER, 0000
DARBY A. CLAYSON, 0000
VALERIE J. CLEGG, 0000
CHRIS L. CLEVELAND, 0000
DAVID E. CLINE, 0000
JERRY M. CLINE, 0000
SAMUEL G. CLOUD, 0000
VINCENT A. COBB, 0000
DAVID S. COCKRUM, 0000
ALAN B. COKER, 0000
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DANIEL E. COLE, 0000
JASMIN KILAYKO COLE, 0000
MICHELLE R. COLEN, 0000
MARK F. COLLIGAN, 0000
JAMES C. COLLINS, 0000
JACK B. COLQUITT, JR., 0000
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JAMES B. CONLEY, 0000
JAMES C. CONNAUGHTON, 0000
FREDERICK A. CONNER, 0000
GREGORY A. CONNER, 0000
JOHNATHAN C. CONNER, 0000
JOSEPH CONNOLLY III, 0000
THOMAS P. CONSTANT, 0000
JOSEPH A. COOK, 0000
JUNE M. COOK, 0000
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ROBERT B. CRONE, 0000
GRADY A. CROOKS, 0000
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RICHARD LEE CROZIER, 0000
ANTHONY D. CRUCIANI, 0000
PATRICK M. CRUPI, 0000
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RANDAL A. CURRIE, 0000
MARGARET A. CURRY, 0000
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MONICA A. DALRYMPLE, 0000
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TODD E. DANTZLER, 0000
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ELTON H. DAVIS, 0000
RICHARD T. DAVIS, 0000
RONALD S. DAY, 0000
CHRISTINA T. DEANGELIS, 0000
JEFFREY L. DEANS, 0000
CYNTHIA J. DECHENES, 0000
ALAN J. DELOSSANTOS, 0000
DOUGLAS D. DEMAIO, 0000
MICHAEL R. DENNISON, 0000
CATHERINE J. F. DERBER, 0000
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DONALD G. DETMERING, 0000
GREGORY A. DEYE, 0000
SCOTT V. DICKSON, 0000
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WILLIAM G. DIESSNER, 0000
ANDREW B. DILL, 0000
DELLA E. DILLARD, 0000
DANNY R. DIMAGGIO, 0000
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JAMES P. DOLAN, 0000
ERIC R. DOPSLAF, 0000
KELLY L. DORENKOTT, 0000
HEATH A. DORION, 0000
MICHAEL E. DOWLER, 0000
SUSAN M. DOWLING, 0000
SCOTT L. DOYLE, 0000
AMANDA M. DRAPER, 0000
AMY FORSBERG DRESS, 0000
CHRISTOPHER M. DRESS, 0000
PETER G. DREWES, 0000
ERICA J. DRUKE, 0000
KALMAN DUBOV, 0000
RITA L. DUBOYCE, 0000
SARAH E. DUCHARME, 0000
MIROSLAWA R. DUDEK, 0000
ERIC J. DUDENHOEFER, 0000
MICHELLE D. DULLANTY, 0000
CLAYTON A. DUNCAN, 0000
MATTHEW D. DUNCAN, 0000
STEFFEN P. DUNCAN, 0000
RORY C. DUNHAM, 0000
NEIL E. DUNLOW, 0000
BRIAN C. DUNN, 0000
HUYEN CHAU DUNN, 0000
JAMES S. DUNN, JR., 0000
STEPHEN J. DURANT, 0000
STEVEN J. DURNING, 0000
JOHN P. DUTTON, 0000
DAVID J. DUVAL, 0000
DAVID V. EASTHAM, 0000
MICHAEL W. EATON, 0000
RICHARD J. ECKERT, JR., 0000
SUSAN L. EDGEMAN, 0000
THOMAS P. EDMONSON, 0000
JOSE F. EDUARDO, 0000
BRYAN T. EDWARDS, 0000
JAMES M. EGBERT, JR., 0000
DANIELLE A. EIGNER, 0000
ROBERT A. EISENHARDT, 0000
PATRICK T. EITTER, 0000
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JAMISON W. ELDER, 0000
JONATHAN L. ELIASON, 0000
STEFAN V. ELING, 0000
HOLLY V. ELLENBERGER, 0000
DANNY R. ELLER, 0000
KRISTIAN S. ELLINGSEN, 0000
ERIC D. ELLIOTT, 0000
CAROL J. ELNICKY, 0000
DARRYL G. ELROD, JR., 0000
JEFFREY J. EMERY, 0000
MICHAEL A. EOVINE, 0000
CHRISTINE R. ERDIELALENA, 0000
LEIGHANN ERDMAN, 0000
MARSHALL A. ERICKSON, 0000
QUENBY L. ERICKSON, 0000
BETINA C. ERZEN, 0000
DAVID L. ESTEP, JR., 0000
CHRISTOPHER A. ETTRICH, 0000
JONATHAN D. EVANS, 0000
RONALD C. EVENSON, 0000
MICHAEL T. EYLANDER, 0000
ISAAC J. FAIBISOFF, 0000
BASSAM M. FAKHOURI, 0000
RAYMOND FANG, 0000
AGUSTIN L. FARIAS, 0000
CHARLES S. FARMER, 0000
MATTHEW D. FAUBION, 0000
CHARLES P. FAY, 0000
STEPHEN E. FECURA, JR., 0000
SUSAN P. FEDERINKO, 0000
JEFFREY A. FEINSTEIN, 0000
MICHAEL E. FELDMAN, 0000
PETER K. FENGER, 0000
CHRISTOPHER F. FENNELL, 0000
ANDREW R. FENTON, 0000
ANN S. FENTON, 0000
JAMES A. FENWICK, 0000
KENNETH H. FERGUSON, 0000
PETER G. FERGUSON, 0000
FRANK T. FERRARO, 0000
JOYCE PASTORE FIEDLER, 0000
WILLIAM K. FIEDLER, 0000
CHRISTOPHER P. FILER, 0000
DOUGLAS S. FILES, 0000
TIMOTHY M. FINNEGAN, 0000
VAL W. FINNELL, 0000
ERNEST C. FINNEY, 0000
MICHAEL B. FISCHER, 0000
COLEEN M. FITZPATRICK, 0000
SHAWN A. FLANAGAN, 0000
HOBY D. FLEECE, 0000
PAUL B. FLEMING, 0000
PATRICK J. FLETCHER, 0000
WADE E. FLETCHER, 0000
WILLIAM P. FLINN, 0000
JEFFREY D. FLINT, 0000
DANIEL E. FLYNN, 0000
JULIANNE FLYNN, 0000
WILLIAM C. FLYNN, 0000
RICHARD A. FOLKENING, 0000
JAMES L. FOLZ, 0000
ROBIN E. FONTENOT, 0000
EDWARD F. FORD, 0000
MICHAEL A. FORGIONE, 0000
GERALD R. FORTUNA, JR., 0000
SARAH O. FORTUNA, 0000
KIMBERLY F. FOSTER, 0000
JENNIFER E. FOURNIER, 0000
CURTIS M. FOY, 0000
TEGRAN O. FRAITES, 0000
WILLIAM M. FRANKLIN, 0000
PAUL V. FRANQUEZ, 0000
CARL A. FREEMAN, 0000
JOHN F. FREILER, 0000
MICHAEL A. FREIMAN, 0000
RODNEY A. FRIEND, 0000
STEPHEN R. FRIETCH, 0000
TODD W. FRIEZE, 0000
JAMES A. FROELICH, 0000
JON A. FULLERTON, 0000
DANIEL B. GABRIEL, 0000
MARY CATHERINE GABRIEL, 0000
JOSHUA S. GADY, 0000
JOSEPH P. GALLAGHER, 0000
MICHAEL L. GALLENTINE, 0000
STEPHEN M. GALVIN, 0000
ARTHUR J. GAMACHE, JR., 0000
FANG YUN GAN, 0000
MATTHEW J. GARBERINA, 0000
DANIEL F. GARCIA, 0000
MICHAEL T. GARDNER, 0000
CECILIA I. GARIN, 0000
ROBERT J. GARR, 0000
DAVID R. GARRETT, 0000
MICHAEL S. GARRETT, 0000
ROBERT H. GARRISON, 0000
CHRISTOPHER A. GARZA, 0000
JEFFREY S. GAST, 0000
KATHLEEN A. GATES, 0000
MICHAEL R. GAURON, 0000
ANDREW J. GAWRYLUK, 0000
JESSE A. GAYDON, 0000
JAY D. GEOGHAGAN, 0000
SCOTT W. GEORGE, 0000
STEPHEN L. GEORGE, 0000
DARLENE GERALD, 0000
MARTIN F. GIACOBBI, 0000
BERNARD L. GIEGLER, 0000
VINCENT J. GILLIS, 0000
THOMAS W. GILLS, 0000
MEREDITH PAIGE GILSON, 0000
DAVID C. GINDHART, 0000
GILSON R. GIROTTO, 0000
HOWARD R. GIVENS, 0000
CHRISTOPHER W. GLANTON, 0000
MICHAEL P. GLEASON, 0000
RONALD D. GLOVACH, 0000
LARRY O. GODDARD, 0000
BRADLEY J. GOEKE, 0000
KEITH A. GOETZ, 0000
FLORDELIZA D. GOLETA, 0000
ANGEL A. GOMEZ, 0000
JAMES R. GONGWER, 0000
ROBERT GONZALEZ, 0000
VERONICA M. GONZALEZ, 0000
WADE T. GORDON, 0000
KARA A. GORMONT, 0000
RONALD A. GOSNELL, 0000
DOUGLAS J. GOTTSCHALK, 0000
DONALD J. GRABER, 0000
ANDRE D. GRAHAM, 0000
JAMES A. GRAHAM, 0000
KARIS K. GRAHAM, 0000
JOHN L. GRAMMER, 0000
KIMBERLY A. GRANDINETTI, 0000
SANDRA LYNNE GRAVES, 0000
CHARLES E. GRAY, 0000
MARY R. GRAY, 0000
DAVID E. GRAYSON, 0000
BLENUS G. GREEN, 0000
KERYL J. GREEN, 0000
NOAH H. GREENE, 0000
SPENCER C. GREENE, 0000
DANIEL W. GREGG, 0000

CARRIE ASHBY GREGORY, 0000
ERIC F. GRELSON, 0000
GLENN D. GRIEBENOW, 0000
BASIL M. GRIFFIN III, 0000
RICHARD C. GRIGGS, 0000
CAROL J. GROBNER, 0000
JEREMY M. GROLL, 0000
DANIEL D. GRUBER, 0000
STEVEN G. GRUBER, 0000
CHRISTOPHER M. GRUSSENDORF, 0000
PAUL W. GRUTTER, 0000
VINCENT J. GRZESIAK, 0000
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ABEL GUERRA, 0000
ROBERT S. GUERZON, 0000
THEODORE G. GUETIG, 0000
HECTOR J. GUEVARA, JR., 0000
LOUIS Q. GUILLERMO, 0000
RUTH P. GULLOTTA, 0000
WILLIAM S. GUNTER, 0000
DANIEL P. GUSS, 0000
GARY B. GUY, 0000
ANN K. GWINNUP, 0000
GREGORY J. HAACK, 0000
MICHAEL J. HAFRAN, 0000
SHERYL A. HAGGERTY, 0000
CAROL A. HALL, 0000
CHRISTINE N. HALL, 0000
CHRISTOPHER R. HALL, 0000
DAVID E. HALL, 0000
PATRICK J. HALLIGAN, 0000
ERIC S. HALSEY, 0000
CHAD A. HAMILTON, 0000
MARTIN J. HAMILTON, 0000
PHILIP M. HAMILTON III, 0000
FRANCISCO G. HAMM, 0000
HOPE S. HAMMETT, 0000
MARK C. HAND, 0000
PATRICK D. HANFORD, 0000
PATRICK E. HANKINS, 0000
WILLIAM N. HANNAH, JR., 0000
GERALD E. HANSEN, 0000
PETER R. HARDING, 0000
ANDREW H. HARDY, 0000
AARON C. HARJU, 0000
SHELLY S. HARKINS, 0000
JOHN D. HARRAH, 0000
GREGORY D. HARRIS, 0000
PHILIP A. HARRIS, 0000
BERNARD C. HARRISON, 0000
COREY D. HARRISON, 0000
EUGENE B. HARRISON, 0000
ALLYSON L. HARROFF, 0000
ANTHONY E. HARTMAN, 0000
BRETT A. HARTNETT, 0000
RICHARD B. HARTSON, 0000
RICHARD R. HARVEY, 0000
MICHAEL A. HASLER, 0000
THOMAS F. HAVILAND, 0000
BRIAN G. HAWKINS, 0000
KARIN N. HAWKINS, 0000
TIMOTHY D. HAX, 0000
CHRISTOPHER G. HAYES, 0000
JASON T. HAYES, 0000
MEGHAN E. HAYES, 0000
SAPNA J. HAYES, 0000
ROSE M. HAZEN, 0000
MATTHEW S. HEBERT, 0000
BRET D. HEEREMA, 0000
MARK D. HEFFERNAN, 0000
JEFFREY J. HEILMAN, 0000
TAMMY KNAPP HEISEY, 0000
BRIAN J. HELLER, 0000
SAMANTHA A. HELWIG, 0000
CHRYSTAL D. HENDERSON, 0000
JEFFREY G. HENDERSON, 0000
MELINDA B. HENNE, 0000
TODD J. HENNEY, 0000
ANDRE A. HENRIQUES, 0000
KENT S. HERBERT, 0000
HEATHER R. HERBOLSHEIMER, 0000
BRUCE WAYNE HESS, 0000
ANTHONY J. HESTER, 0000
SCOTT K. HETZ, 0000
ERIC J. HICK, 0000
CHARLES H. HICKS, JR., 0000
ROBERT W. HICKS, 0000
ERIKA K. HILL, 0000
PATRICK E. HILL, 0000
MICHAEL P. HINZ, 0000
JAMES M. HITCHCOCK, 0000
CHAD M. HIVNOR, 0000
JOSHUA M. HIXSON, 0000
CRYSTAL L. HNATKO, 0000
WILLIAM K. HOBSON, 0000
MICHAEL GLENN HODGES, 0000
RANDALL D. HOFBAUER, 0000
HOWARD HOFFMAN, 0000
MICHAEL B. HOGAN, 0000
MARK E. HOGGAN, 0000
BOBBY M. HOLLAND, 0000
FRANCIS T. HOLLAND, 0000
MATTHEW H. HOLM, 0000
RODNEY L. HOLMES, 0000
STEPHEN C. HOLMES, 0000
DENNIS M. HOLT, 0000
BRADLEY S. HOOD, 0000
STEPHEN H. HOOPER, 0000
RICHARD G. HORN, 0000
ANDREW L. P. HOUSEMAN, 0000
MICHAEL A. HOVEY, 0000
JOE W. HOWARD, 0000
DELLA L. HOWELL, 0000
BRENT R. HRNCIR, 0000
AMY M. HUBER, 0000
SCOTT A. HUBER, 0000
PAULA R. HUBERT, 0000
CHRISTOPHER M. HUDSON, 0000
KYLE B. HUDSON, 0000
PATRICK W. HUESTED, 0000
HEINZ H. HUESTER, 0000
JONATHAN L. HUGGINS, 0000
KATHRYN G. HUGHES, 0000
SOLON G. HUGHES, 0000
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JAMES E. HUIZENGA, 0000
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DUSTIN G. HUNTZINGER, 0000
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CONRAD L. HUYGEN, 0000
GREGORY S. HYLAND, 0000
LIDIA S. ILCUS, 0000
DAVID J. IMPICCINI, 0000
WALTER N. INGRAM, 0000
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JAMES R. IVEY, 0000
RAJIV C. IYER, 0000
CONSTANCE L. JACKSON, 0000
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SCOTT C. JACOBS, 0000
RANDOLPH L. JAMES, 0000
LEE W. JANSON, 0000
DENNIS C. JEFFERSON, 0000
JOHN W. JENNINGS III, 0000
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SCOTT M. JENSEN, 0000
TERRY O. JENSON, 0000
ROBERT A. JESINGER, 0000
CHARLES D. JOHNSON, 0000
DWIGHT L. JOHNSON, 0000
JAMES E. JOHNSON, 0000
KEVIN W. JOHNSON, 0000
LARRY E. JOHNSON, 0000
MICHEAL B. JOHNSON, 0000
MONICA L. JOHNSON, 0000
VALERIE V. T. JOHNSON, 0000
WILLIAM T. JOHNSTON, 0000
DAVID M. JONES, 0000
DAVID S. JONES, 0000
LOREN M. JONES, 0000
MCCLURE K. JONES, 0000
PHYLLIS F. JONES, 0000
RANDALL S. JONES, 0000
ROLAND P. JONES, 0000
SAMUEL O. JONES IV, 0000
SARAH S. JONES, 0000
THOMAS M. JOSS, 0000
ROBERT H. JUDY, 0000
PHILIP S. JUNGHANS, 0000
ROBERT F. KACPROWICZ, 0000
WARREN R. KADRMAS, 0000
BENJAMIN C. KAM, JR., 0000
FARHAD A. KANDAKLOO, 0000
SHERYL L. KANE, 0000
HYON SIK SCOTT KANG, 0000
JOHN CHOONGWHA KANG, 0000
PHYLLIS J. KAPELLEN, 0000
TONI L. KAPLAN, 0000
KEVIN J. KAPS, 0000
MARK A. KARCUTSKIE, 0000
DAVID M. KASE, 0000
PACHAVIT KASEMSAP, 0000
LEONID M. KATKOVSKY, 0000
PATRICK S. KELLEY, 0000
RICHARD E. KELLEY, 0000
BILL P. KENNEDY, 0000
JOHN P. KENNEDY, 0000
ERICK G. KENT, 0000
ROBERT S. KENT, 0000
MIKELLE L. KERNIG, 0000
ERIC D. KESLER, 0000
THOMAS E. KIBELSTIS, 0000
DAVID B. KIESER, 0000
JENNIFER L. KILBOURN, 0000
STEPHEN W. KILL, 0000
ALEXANDER P. S. KIM, 0000
PETER H. KIM, 0000
BRENT L. KINCAID, 0000
STEVEN M. KINDSVATER, 0000
ROBERT M. KIRCHNER, 0000
GEORGE A. KIRKPATRICK, 0000
JAMES DALE KISER, JR., 0000
HEIDI L. KJOS, 0000
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PETER H. KLAVIK, 0000
JACK A. KLEIN, 0000
MARK W. KLEVE, 0000
DAVID E. KLINGMAN, 0000
DANIEL S. KNEE, 0000
MICHELE L. KNIERIM, 0000
KRISTOPHER D. KNOOP, 0000
JAMES F. KNOWLES, 0000
PETER T. KNOX, 0000
DAYTON S. KOBAYASHI, 0000
KY M. KOBAYASHI, 0000
PETER J. KOBES, 0000
GRETCHEN L. KOHLER, 0000
JANA S. KOKKONEN, 0000
HENRY KORZENIOWSKI, JR., 0000
AMAR KOSARAJU, 0000
JOHN F. KOSS, 0000
WALLACE J. KOST, 0000
DONALD C. KOWALEWSKI, 0000
MARK C. KOZIOL, 0000
ROBYN T. K. KRAMER, 0000
KATHLEEN S. KREJCI, 0000
JAMES L. KRENEK, 0000
THOMAS K. KUBLIE, 0000
BRADLEY DARIN KUEHN, 0000
MICAL J. KUPKE, 0000
ELIZABETH N. KUTNER, 0000
JAMES M. KUTNER, 0000
JERRY D. LABSON, 0000
JEFFREY K. LADINE, 0000
JOHN C. LAMANTIA, 0000
MICHAEL F. LAMB, 0000
DYJERLYNN C. LAMPLEY, 0000
MICHAEL L. LANDRUM, 0000
DAVID P. LANGAN, 0000
EDWARD W. LANGAN, 0000
JAMES M. LANGE, 0000
SHAROLYN K. LANGE, 0000
BRIAN D. LANGRIDGE, 0000
JOEL D. LAPLANTE, 0000
NONATO A. LARGOZA, 0000
ELIZABETH S. LARSON, 0000
JEFFRY J. LARSON, 0000
STEVEN P. LARSON, 0000
MARK S. LASHELL, 0000
HENRY K. K. LAU, 0000
DAVID P. LAUGHLIN, 0000
MICHAEL S. LAUGHREY, 0000
JEFFREY L. LAVALLEE, 0000
JAMES A. LAWSON, JR., 0000
JARRETT B. LEA, 0000
CHARLES A. LEATH III, 0000
JAMES B. LEAVENWORTH, 0000
ALEX J. LEE, 0000
CHRISTINE Y. LEE, 0000
CHRISTOPHER S. LEE, 0000
CRYSTINE M. LEE, 0000
DAVID P. LEE, 0000
ERNEST C. LEE, 0000
GENE C. LEE, 0000
JAMES D. LEE, 0000
KENYA D. LEE, 0000
MARVIN LEE II, 0000
MICHAEL K. LEE, 0000
REBECCA L. LEHR, 0000
SHANNON C. LEHR, 0000
JAMES D. LEIBER, 0000
BRIAN E. LEININGER, 0000
JASON S. LENK, 0000
PAUL M. LENTS, 0000
SARAH L. LENTZ, 0000
XAVIER LEOS, 0000
LUKE M. LEVEILLEE, 0000
ROBERT J. LEVERTON, 0000
JEFFREY D. LEWIS, 0000
KARYN C. LEWIS, 0000
MICHAEL B. LEWIS, 0000
RYAN L. LEWIS, 0000
WILLIAM C. LEWIS, 0000
ROBERT C. LIEBMAN, 0000
PETER A. LIEHR, 0000
WEN LIEN, 0000
RALPH R. LIM, JR., 0000
TREVOR D. LIM, 0000
JOHN C. LIN, 0000
NEAL S. LINCH, 0000
CHRISTOPHER M. LINE, 0000
DOUGLAS M. LITTLEFIELD, 0000
BRADLEY A. LLOYD, 0000
JEREMY D. LLOYD, 0000
HORACE P. LO, 0000
PETER J. LODICO, 0000
JONATHAN C. LOHRBACH, 0000
GIANG K. LOI, 0000
TERENCE PATRICK LONERGAN, 0000
BRIAN M. LONG, 0000
LARRY K. LONG, 0000
PAUL A. LONGO, 0000
DON J. LOPEZ, 0000
MANUEL A. LOPEZ, 0000
JEFFREY C. LOUIE, 0000
BRIAN W. LOVERIDGE, 0000
THOMAS R. LOWRY, 0000
TIMOTHY R. LUCE, 0000
SALVATORE J. LUCIDO, 0000
DAVID A. LUNGER, 0000
LARS W. LUNSFORD, 0000
DAVID J. LUTHER, 0000
THOMAS W. LUTZ, 0000
ADMIRADO LUZURIAGA, 0000
FORREST J. LYKINS, JR., 0000
MARK D. LYMAN, 0000
KEEGAN M. LYONS, 0000
KAI WOOD MA, 0000
DANIEL M. MACALPINE, 0000
THOMAS A. MACIAS, 0000
ANDREW B. MACKERSIE, 0000
DEBORAH L. MACKERSIE, 0000
KIRIN L. MADDEN, 0000
STEVEN W. MADSON, 0000
VICTOR B. MAGGIO, 0000
MEGAN E. MAHAFFEY, 0000
CHARLES G. MAHAKIAN, 0000
DAVID A. MAHER, 0000
DAVID S. MALLETTE, 0000
HAROLD W. MANLEY, 0000
SCOTT S. MANLEY, 0000
MATTHEW C. MANTEI, 0000
DAVID L. MAPES, 0000
ARA M. MARANIAN, 0000
DEBORAH R. MARCUS, 0000
MELVIN J. MARQUE III, 0000
SHERON B. MARSHALL, 0000
MICHAEL L. MARSTON, 0000
KATHLEEN MARTIN, 0000
MATTHEW A. MARTIN, 0000
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SHERIDAN A. MARTIN, 0000
WAYNE R. MARTIN, 0000
IGOR MARYANCHIK, 0000
PHILLIP J. MASCIOLA, 0000
MYLA B. MASON, 0000
PHILLIP E. MASON, 0000
BURTON M. MASSEY, 0000
MICHAEL E. MATHER, 0000

DENNIS R. MATHEWS, 0000
DEREK A. MATHIS, 0000
TODD T. MATSUMOTO, 0000
ROBERT J. MATTHEWS, 0000
WALTER M. MATTHEWS, 0000
DEAN W. MAUD, 0000
ERICH C. MAUL, 0000
JUDITH L. MAYRAND, 0000
TIMOTHY J. MAZZOLA, 0000
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MICHAEL J. MCCOLLUM, 0000
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GREGORY B. MCCOOL, 0000
RANDALL E. MCCORMICK, 0000
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LAVETA L. MCDOWELL, 0000
PATRICK D. MCEVOY, 0000
SOPHIA MCFADDEN, 0000
ROSS W. MCFARLAND, 0000
SEAN C. MCFARLAND, 0000
KEVIN C. MCGAUGHEY, 0000
TIMOTHY D. MCGAVERN, 0000
ROBERT K. MCGHEE, 0000
HOWARD J. MCGOWAN, 0000
ROBERT P. MCGRATH, JR., 0000
MIA M. MCGREGOR, 0000
YURI F. MCKEE, 0000
DONALD J. MCKEEL, 0000
HEIDI C. MCKENNA, 0000
NOLA S. MCMANUS, 0000
JEFFREY D. MCNEIL, 0000
JOHN K. MCNULTY, 0000
OLIVER L. MCPHERSON, 0000
PAMELA J. MCSHANE, 0000
ANITA L. MCSWAIN, 0000
DAREN R. MEALER, 0000
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BERTRAM K. MEDLOCK, 0000
ERIC A. MEIER, 0000
ALEKSANDR G. MELIKOV, 0000
KURT D. MENTZER, 0000
VICTORIA LYNN MEREDITH, 0000
GREGORY C. MERK, 0000
STEPHEN E. MESSIER, 0000
MICHAEL T. MEYER, 0000
EDWARD J. MEYERS, 0000
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ARNOLD B. MICHELS, 0000
MICHAEL D. MICHENER, 0000
JOHN V. MIHALY, 0000
GIOVANNI G. MILLARE, 0000
CHAD H. MILLER, 0000
DARREN L. MILLER, 0000
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QUINTESSA MILLER, 0000
LYNDON B. MILLINER, 0000
DAVID A. MILLSAPPS, 0000
DOUGLAS D. MIN, 0000
KENNETH D. MINKS, 0000
DANIEL I. MIRSKI, 0000
ALYSON D. MISER, 0000
ANTHONY L. MITCHELL, 0000
DARIUS F. MITCHELL III, 0000
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TERENCE B. MITCHELL, 0000
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JAMES R. MOLINARI, 0000
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RICHARD L. MOONEY, 0000
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DAVID M. MOORE, 0000
JON M. MOORE, 0000
LAURA M. MOORE, 0000
MEREDITH LINN MOORE, 0000
SUSAN O. MORAN, 0000
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MELINDA F. MORGAN, 0000
BARRY F. MORRIS, 0000
JAMIE J. MORRIS, 0000
MICHAEL S. MORRIS, 0000
WILLIAM L. MORRIS, 0000
ANGELA J. MORTLAND, 0000
PAUL M. MORTON, 0000
CHER D. MOSEMAN, 0000
EVAN B. MOSER, 0000
CHARLES H. MOSHER, 0000
GARY K. MOY, 0000
CHRISTOPHER C. MUENCHEN, 0000
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SEAN T. MULLENDORE, 0000
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BASEEMAH S. NAJEEULLAH, 0000
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ALAN J. NAPOLES, 0000
HAFEZ A. NASR, 0000
JUSTIN B. NAST, 0000
MARC H. NEIBERG, 0000
PAIGE L. NEIFERT, 0000
CHRISTOPHER L. NELSON, 0000
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GREGG B. NELSON, 0000
STEPHEN L. NELSON, JR., 0000
TIMOTHY A. NESLEY, 0000
TERESA D. NESSELROAD, 0000
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THOMAS C. NEWTON, 0000
VISETH NGAUY, 0000
DZUY TAN NGUYEN, 0000
NGHIA H. NGUYEN, 0000
PAMELA PHUONG K. NGUYEN, 0000
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PAUL B. NICHOLS, 0000
MARK F. NICHOLSON, 0000
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WILFREDO J. NIEVES, 0000
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JEFFREY S. NUGENT, 0000
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SEAN L. ODONNELL, 0000
ADEDAYO ODUNSI, 0000
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AMY OLSEN, 0000
STEVEN L. OLSEN, 0000
DAVID M. OLSON, 0000
LINDA RUTH OLSON, 0000
ROBERT P. OLSON, 0000
BRADLEY A. OLSSON, 0000
MARIBEL B. ORANTEMANGILOG, 0000
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KENNETH J. ORR, 0000
DAVID J. ORRINGER, 0000
DAVID D. ORTIZ, 0000
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GREG M. OSGOOD, 0000
ALBERT L. OUELLETTE, 0000
EDWARD G. OUELLETTE, 0000
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ROBERT PADGETT, 0000
JOHN P. PAGIOTAS, 0000
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LOUIS J. PAPA, 0000
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JEFFERY E. PARKER, 0000
JOHN M. PARKER, 0000
TIMOTHY A. PARKER, 0000
SYLVIA L. PARRA, 0000
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RALPH W. PASSARELLI III, 0000
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MICHAEL A. PECK, 0000
STEVEN J. PECKHAM, 0000
MICHAEL S. PEDERSON, 0000
ERIC L. PEEBLES, 0000
JANICE E. PEEBLY, 0000
STEVEN D. PEINE, 0000
KYLE E. PELKEY, 0000
RAYMOND A. PENSY, 0000
BARRY W. PEPPERS, 0000
DAWN E. PEREDO, 0000
ANDRE R. PERRAULT, 0000
MICHAEL D. PERRINO, 0000
GREGORY A. PERRON, 0000
EILEEN J. PERRY, 0000
LUTHER G. PERSON, 0000
RACHEL R. PETERSEN, 0000
JEFFREY S. PETERSON, 0000
LAURA J. PETERSON, 0000
MICHAEL C. PETRO, 0000
JOEL M. PHARES, 0000
RANDOLPH E. PHARR, 0000
GRANT C. PHILLIPS, 0000
ALLAN S. PHILP, JR., 0000
KEVIN P. PIATT, 0000
MICHAEL R. PICHARDO, 0000
PAUL D. PIDGEON, 0000
WILLIAM N. PIERCE, 0000
DESIDERIO PINA, 0000
KELLY M. PITTMAN, 0000
LAURA L. PLACE, 0000
CATHERINE R. S. PLATT, 0000
PAUL W. PLOCEK, 0000
DOUGLAS R. PLUMLEY, 0000
RAY L. PLUMLEY, 0000
DANIEL J. PODBERESKY, 0000
MICHELLE L. POHLAND, 0000
JAMES R. POLLOCK, 0000
BRENT A. PONCE, 0000
THEODORE W. POPE, 0000
MATTHEW M. POPPE, 0000
ROBERT R. PORCHIA, 0000
STEPHANIE A. PORTER, 0000
RONALD H. POST, 0000
MARCIA A. POTTER, 0000
WARREN G. POULSON, 0000
DARON C. PRAETZEL, 0000
HARRIS R. PRAGER, 0000
RICHARD J. PRIEVE, 0000
MICHAEL ALAN PROFFITT, 0000
VALERIE M. PRUITT, 0000
VICTOR B. PUTZ, JR., 0000
JOHN C. RABINE, 0000
JAMES C. RACHAL, 0000
EDWARD P. RAGELIS, JR., 0000
HAR P. RAI, 0000
MICHAEL RAJNIK, 0000
STEVEN J. RAJOTTE, 0000
ALEXIES RAMIREZ, 0000
MICHAEL D. RANDALL, 0000
GREGORY N. RANKIN, 0000
TONYA S. RANSNIGRO, 0000
DAVID A. RAPKO, 0000
MARK S. RASNAKE, 0000
MELINDA M. RATHKOPF, 0000
BRIAN E. RAUSCH, 0000
JENNIFER L. RAVENSCROFT, 0000
MANOJ RAVI, 0000
PATRICK A. RAY, 0000
TRACEE P. RAY, 0000
JERALD E. RECTOR, 0000
ROBERT L. REDDING, 0000
THERESA A. REESE, 0000
TERESA E. REEVES, 0000
SEAN P. REGAN, 0000
STEPHEN S. REICH, 0000
JOHN P. REILLY, 0000
JEFFREY MICHAEL RENGEL, 0000
WILLIAM J. RESNIK, 0000
NATALIE L. RESTIVO, 0000
PETER L. REYNOLDS, 0000
PATRICK J. RHATIGAN, 0000
SONG B. RHIM, 0000
JOHN F. RIANS, 0000
MICHAEL D. RICE, 0000
ROBERT B. RICE, 0000
RICHARD L. RICHARD, 0000
KAREN C. RICHARDS, 0000
MICHAEL F. RICHARDS, 0000
CLARKE T. RICHARDSON III, 0000
JOHN K. RICHARDSON, 0000
ZINDELL RICHARDSON, 0000
JONATHAN E. RICHTER, 0000
TIMOTHY A. RICHTER, 0000
GREGORY A. RIDDLE, 0000
WILLIAM R. RIDDLE, JR., 0000
NEAL PATRICK RIDGE, 0000
MATTHEW K. RIEDESEL, 0000
MARK G. RIEKER, 0000
ROBERT A. RIEPER, 0000
LYRAD K. RILEY, 0000
THOMAS P. RILEY, 0000
ROBERT E. RING, JR., 0000
ERIC M. RITTER, 0000
TERRI L. RIUTCEL, 0000
JENNIFER M. RIZZOLI, 0000
CHARLES K. ROBERTS, 0000
DARREN J. ROBERTS, 0000
KISMET T. ROBERTS, 0000
BRAD E. ROBINSON, 0000
TRACEY R. ROCKENBACH, 0000
KYLE M. ROCKERS, 0000
JOY A. N. RODRIGUEZ, 0000
RAYMOND M. RODRIGUEZ, 0000
OSCAR RODSON, 0000
GARY L. ROEDIGER, 0000
CHRISTOPHER S. ROHDE, 0000
DANIEL M. ROKE, 0000
DAVID J. ROLL, 0000
BARRY J. ROMITTI, 0000
ENRIQUE E. ROSADO, 0000
JEFFREY L. ROSE, 0000
DONALD P. ROTEN, 0000
JOSHUA S. ROTENBERG, 0000
RYLLIS A. ROUSSEAU, 0000
MARK P. ROWAN, 0000
RICHARD M. RUBIN, 0000
DAWN M. RUDD, 0000
GREGORY A. RUFF, 0000
TRACY L. RUSSELL, 0000
TIMOTHY M. RUTH, 0000
JOSHUA J. SACHA, 0000
JERRY D. SADLER, 0000
AMY M. SAGE, 0000
RUBEN S. SAGUN, JR., 0000
JAMES B. SAMPSON, 0000
CHRISTOPHER P. SAMUELS, 0000
CORIE L. SANDALL, 0000
JERRY W. SANDIEGO, 0000
YONG PARK SAPORITO, 0000
ROBERT SARLAY, JR., 0000
ANDRE G. SARMIENTO, 0000
DONALD P. SAUBERAN, 0000
STEPHANIE A. SAVAGE, 0000
DANIEL A. SAVETT, 0000
KEITH A. SAXTON, 0000
JENNIFER L. SCAGNELLI, 0000
SCOTT A. SCHAEFER, 0000
STEPHANIE A. SCHAEFER, 0000
MICHAEL D. SCHANCK, 0000
MICHAEL J. SCHEEL, 0000
CHRIS A. SCHEINER, 0000
HERBERT P. SCHERL, 0000
KENNETH THOMAS SCHIESSL, 0000
ROBERT J. SCHIMMEL, 0000
KIRK D. SCHLAFER, 0000
KEITH E. SCHLECHTE, 0000
DAVID I. SCHMIDT, 0000
ERIC R. SCHMIDT, 0000
GREGORY A. SCHNERINGER, 0000
BRETT W. SCHOLTEN, 0000

JANET L. SCHREIBER, 0000
GREGORY L. SCHUMACHER, 0000
BRUCE H. SCHUSSLER, 0000
NEIL L. SCHWIMLEY, 0000
JED L. SCOTT, 0000
MELINDA DANIEL SCREWS, 0000
KATHRYN L. SELLEN, 0000
SCOTT S. SELZER, 0000
MARIANNE L. SENER, 0000
DAN SEPDHAM, 0000
RICHARD J. SERKOWSKI, 0000
RAYMOND R. SESSIONS, 0000
WILLIAM E. SETTLEMIRE, 0000
BRIAN G. SEVERNS, 0000
PARIMAL K. SHAH, 0000
DAVID C. SHAMASS, 0000
PATRICK A. SHEA, 0000
DARRYL M. SHEETS, 0000
FAREED A. SHEIKH, 0000
JEHANZEB A. SHEIKH, 0000
ROBERT S. SHEPERD, 0000
ROGER P. SHERMAN, 0000
CLAIRE A. SHERVANICK, 0000
ANDREA D. SHIELDS, 0000
MIKE S. SHIN, 0000
TAD M. SHIRLEY, 0000
DANIEL A. SHOEMAKER, 0000
DAVID R. SHONK, JR., 0000
REBECCA W. SHORT, 0000
MARTIN W. SHUPE, 0000
FERNANDO SILVA, 0000
MICHAEL J. SILVERMAN, 0000
DAVID P. SIMON, 0000
MONA A. SINNO, 0000
KSHAMATA SKEETE, 0000
PAUL A. SKLUZACEK, 0000
JOSEPH C. SKY, 0000
JOHN H. SLADKY, 0000
JOHN L. SMEAR, 0000
DARRELL S. SMITH, 0000
DAVID W. SMITH, 0000
DUNCAN D. SMITH, 0000
GREGORY S. SMITH, 0000
KEVIN L. SMITH, 0000
TODD W. SMITH, 0000
WILLIAM H. SMITH, 0000
JEFFREY M. SMITLEY, 0000
BRANDON T. SNOOK, 0000
CATHY S. SNOWBALL, 0000
LESLIE E. SNYDER, 0000
BRENT A. SONDAY, 0000
RICHARD A. SORENSEN, 0000
HEATHER J. SOUTHBY, 0000
FRANK C. SOUZA, 0000
ROBERT L. SPENCE, 0000
CHRISTOPHER R. SPINELLI, 0000
JAMES E. SPLICHAL, 0000
MICHEAL SPOHN, 0000
TRISTANNE M. SPOTTSWOOD, 0000
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JASON A. STAMM, 0000
KEVIN J. STANGER, 0000
GREGORY K. STANKEWICZ, 0000
COREY M. STANLEY, 0000
PETER S. STAVELEY, 0000
JAMES D. STEED, JR., 0000
KEVIN E. STEEL, 0000
DAVID L. STEINHISER II, 0000
RANDOLPH J. STENZEL, 0000
PHILLIP J. STEPHAN, 0000
KEVIN W. STEPHENS, 0000
JOANN STETTLER, 0000
KEVIN L. STEVENS, 0000
ELIZABETH D. P. STEWART, 0000
JEANNE M. STEWART, 0000
JENNIE LEIGH L. STODDART, 0000
MARK A. STOLLER, 0000
MICHELE R. STONE, 0000
STEPHANIE A. STOUDER, 0000
DARYN R. STRALEY, 0000
BRIAN L. STRANG, 0000
PAMELA L. STRICKLAND, 0000
RICHARD J. STRILKA, 0000
TONI C. STRONG, 0000
SHAUN R. STUGER, 0000
SREEKUMAR SUBRAMANIAN, 0000
ERIC A. SUESCUN, 0000
MICHAEL R. SUHLER, 0000
JAMES L. SULLIVAN II, 0000
ROBERT T. SULLIVAN, 0000
TIMOTHY J. SULLIVAN, 0000
LEONARD SUMMERS III, 0000
MARK A. SUMMERS, 0000
YOUNG K. SUNG, 0000
MICHAEL J. SUTHERLAND, 0000
DEENA E. SUTTER, 0000
JACK J. SWANSON, 0000
LEIGH A. SWANSON, 0000
SUSAN M. SWAYNE, 0000
MARVIN N. SWINK, 0000
THADDEUS D. SZRAMKA, JR., 0000
NGUYEN V. TA, 0000
LON J. TAFF, 0000
DEREK A. TAGGARD, 0000
MATTHEW R. TALARCZYK, 0000
KRISTEN E. TALECK, 0000
MICHAEL A. TALL, 0000
BRYAN K. TALLENT, 0000
ELIZABETH M. TANDY, 0000
GEORGE A. TANKSLEY, JR., 0000
DAMON D. TANTON, 0000
HAMID R. TAVAKOLI, 0000
LARRY G. TAYLOR, 0000
NATHAN L. TAYLOR, 0000
STEVEN B. TAYLOR, 0000
TARA L. TAYLOR, 0000
KEITH A. TERRELL, 0000
KEVIN M. TESSIER, 0000
SARAT THIKKURISSY, 0000
BRIDGET A. THILL, 0000
JEFFREY B. THOMAS, 0000
JOHN A. THOMAS, 0000
JOHN D. THOMAS, 0000
LINDA P. THOMAS, 0000
MICHAEL D. THOMAS, 0000
MICHAEL R. THOMAS, 0000
NICOLE M. THOMAS, 0000
CARL E. THORNBLADE II, 0000
RICHARD D. THRASHER III, 0000
JEFFERSON R. THURLBY, 0000
MICHAEL E. TIEDE, 0000
ROBERT A. TIMMONS, 0000
CHARLES S. TIMNAK, 0000
STEPHANIA K. TIMOTHY, 0000
MICHAEL K. TING, 0000
MICHELLE R. TIRADO, 0000
MARC A. TODINO, 0000
THOMAS J. TOFFOLI, 0000
JOHN M. TOKISH, 0000
KELLIE M. TOLIN, 0000
RAMONE A. TOLIVER, 0000
JUSTINE R. TOMPKINS, 0000
ROBERT I. TOMPKINS, 0000
GEOFFREY D. TOWERS, 0000
RICHARD D. TOWNSEND, 0000
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EDGAR H. TRAVER, JR., 0000
CHESTER A. TRELOAR, 0000
EMMANUEL A. TRIGENIS, 0000
PEDRO R. TRINIDAD, JR., 0000
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DAVID G. TRUE, 0000
ERIC J. TRUEBLOOD, 0000
SARAH A. TRUSCINSKI, 0000
ALEXANDER C. TSANG, 0000
ALICIA L. TSCHIRHART, 0000
PETER G. TUCKER, 0000
WILLIAM K. TUCKER, 0000
BLAINE A. TUFT, 0000
PAMELA TULI, 0000
RAJESH TULI, 0000
GEORGE S. TUNDER, JR., 0000
GALE T. TUPER, JR., 0000
STEVEN F. TURNER, 0000
JOHN N. TURNIPSEED, 0000
LANE E. TUTTLE, 0000
LAURENCE A. ULISSEY, 0000
CEASAR A. VALLE, 0000
KYLE M. VANDEGRAAFF, 0000
MICHAEL W. VANDEKIEFT, 0000
RICHARD A. VANDERWEELE, 0000
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KEVIN R. VANVALKENBURG, 0000
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NINO A. VIDIC, 0000
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MARCUS B. VINCENT, 0000
MICHAEL G. VINSON, 0000
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ROSANNE VISCO, 0000
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GUS E. VITALI, 0000
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KIRSTEN R. VITRIKAS, 0000
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SANDRA R. VOLDEN, 0000
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SON X. VU, 0000
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CHRISTOPHER S. WALKER, 0000
RICHARD W. WALKER, 0000
GRAHAM W. WALLACE, 0000
HOWARD T. WALLER, 0000
MITCHELL D. WALROD, 0000
NANCY A. WALTER, 0000
THOMAS A. WALTERS, 0000
JOHN K. WALTON, 0000
DAVID T. WANG, 0000
ALLAN E. WARD, 0000
JAMES M. WARD, 0000
RICHARD P. WARD, JR., 0000
CRAIG A. WARDELL, 0000
SCOTT J. WARDLE, 0000
MATTHEW T. WARREN, 0000
MELODY A. WARREN, 0000
MARK E. WASSER, 0000
CHRISTOPHER L. WATHIER, 0000
DANIEL J. WATTENDORF, 0000
JENNIFER J. WEAVER, 0000
MICHAEL D. WEBB, 0000
MARK A. WEISKIRCHER, 0000
ERIK K. WEITZEL, 0000
KYLE J. WELD, 0000
TODD S. WELLER, 0000
RYAN D. WELLS, 0000
MICHAEL J. WELSH, 0000
KYLE S. WENDFELDT, 0000
MARIE J. WESTPHAL, 0000
JOHN C. WHEELER, 0000
ROBERT D. WHITE, 0000
JEFFREY B. WHITING, 0000
STEVEN E. WHITMARSH, 0000
PATRICK F. WHITNEY, 0000
JOHN D. WHITTENBERGER, 0000
CHRISTOPHER J. WIBBELSMAN, 0000
VANESSA K. WIDEMAN, 0000
JAMES F. WIEDENHOEFER, 0000
GREGORY C. WIGGINS, 0000
GWEN M. WILCOX, 0000
CAROLYN A. WILD, 0000
COURT R. WILKINS, 0000
KIM L. WILKINSON, 0000
LEE D. WILLIAMES, 0000
ERICA L. WILLIAMS, 0000
JOSEPH M. WILLIAMS, 0000
MICHAEL D. WILLIAMS, 0000
PAMELA M. WILLIAMS, 0000
LYNN M. WILSON, 0000
MATTHEW G. WILSON, 0000
SHELIA M. WILSON, 0000
STANLEY G. WILSON III, 0000
WILLIAM E. WINTER III, 0000
THOMAS C. WISLER, JR., 0000
JOHN R. WITHEROW, 0000
CATHERINE T. WITKOP, 0000
SONYA L. WOFFORD, 0000
KEVIN M. WOLF, 0000
WILLIAM S. WOLFE, 0000
GRAND F. WONG, 0000
JOHN W. WONG, 0000
DAVID A. WOOD, 0000
JEFFREY N. WOOD, 0000
MICHAEL J. WOOD, 0000
SAMUEL K. WOOD, 0000
SHERALYN D. WOOD, 0000
THOMAS E. WOOD, 0000
BRUCE A. WOODFORD, 0000
TIMOTHY D. WOODS, 0000
EDWARD B. WOODWARD, 0000
KENNETH A. WOODWARD, 0000
DONALD R. WOOLEVER, 0000
ROBERT B. WOOLLEY, 0000
JENNIFER A. WRIGHT, 0000
JOSHUA L. WRIGHT, 0000
JOY C. WU, 0000
CHRISTOPHER K. WYATT, 0000
XIAOHUI XIONG, 0000
JUNKO YAMAMOTO, 0000
RAMON YAMBOARIAS, 0000
YI YANG, 0000
ERIC S. YAO, 0000
JAMES H. YAO, 0000
PAUL A. YATES, 0000
MICHAEL W. YERKEY, 0000
FARIDA YOOSEFIAN, 0000
BRIAN M. YORK, 0000
ROBERT R. YORK, 0000
JEFFREY M. YOUNG, 0000
JEREMIE J. YOUNG, 0000
MATTHEW C. YOUNG, 0000
MAURICE E. YOUNG, 0000
RUSSELL J. YOUNG III, 0000
KARYN E. YOUNGCARIGNAN, 0000
KIMBERLY A. YOUNGQUIST, 0000
AARON T. YU, 0000
KENNETH C. Y. YU, 0000
DENNIS F. ZAGRODNIK, 0000
SHAHID A. ZAIDI, 0000
MICHAEL A. ZANE, 0000
ANTHONY I. ZARKA, 0000
SHAWN P. ZARR, 0000
SOLOMON F. ZEWDU, 0000
REGGIE ZHAN, 0000
JIANZHONG J. ZHANG, 0000
AN ZHU, 0000
GABRIEL ZIMMERER, 0000
MICHELLE K. ZIMMERMAN, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

E. N. STEELY III, 0000