are ill or unable to care for themselves. Economically, women are increasingly the primary breadwinners in immigrant families, making it more likely for the family to open a small business or purchase a home. Women are also the primary drivers of immigrant integration for the entire family, encouraging others to emigrate and integrate effectively into the community.

We believe that Hirono #1504 is essential to ensuring that we do not inadvertently cement a practice that presents distinct barriers for women to acquire U.S. immigration law. The amendment would establish a Tier 3 merit-based point system that would provide a fair opportunity for women to obtain the meriting-based green cards. Complementary to the high-skilled Tier 1 and the lower-skilled Tier 2, the new Tier 3 would include professions commonly held by women so as not to limit women’s opportunities for economic-focused immigration. It would provide 30,000 Tier 3 visas and would remain available in the other merit-based Tiers.

America has always held out hope and opportunity to millions of women across the world, offering them a chance to make better lives for themselves and their families. They move seeking freedom and opportunity often denied in other places. As Americans, we honor and value the contributions of women to protecting families and giving equal opportunities and respect to women and girls. We need women’s immigration reform to reflect that commitment and to provide opportunities to everyone, including women.

We urge you to support Hirono #1504 and help ensure fairness for women in immigration reform. If you have any questions, please contact Pilara Jayapal at We Belong Together: Women for Common-Sense Immigration Reform at playapal.com or June Zeitlin at The Leadership Conference on Civil and Human Rights at zeitlin@civilrights.org.

EXECUTIVE SESSION

EXECUTIVE SESSION

NOMINATION OF ANTHONY RENARD FOXX TO BE SECRETARY OF TRANSPORTATION

The Acting President pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Anthony Renard Foxx, of North Carolina, to be Secretary of Transportation.

The Acting President pro tempore. Under the previous order, there will be 2 minutes for debate equally divided and controlled in the usual form.

Mr. ROYCE. Mr. President, I am chairman of the Commerce Committee. Mayor Anthony Foxx, who is absolutely superb, someone as a mayor, which I like, secondly as an expert on transportation, intermodal and otherwise. He understands the lay of the land and he has done it.

He was passed without a single dissentingvote of either party in the Commerce Committee. That is quite remarkable these days. He is a superb and qualified person who is very much needed to overlook our enormous transportation system which is in trouble. I hope my colleagues will support him.

The Acting President pro tempore. Who yields time in opposition?

Mr. CORNYN. We yield back all time.

I ask for the yeas and nays.

The Acting President pro tempore. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Anthony Renard Foxx, of North Carolina, to be Secretary of Transportation? The clerk will call the roll. The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows: 

[Rollcall Vote No. 165 Ex.]

YEAS—100

Alexander  Flake  Mark Warner
Baldwin  Gillibrand  Murray
Bernero  Graham  Nelson
Barrasso  Grassley  Portman
Baucus  Harkin  Pryor
Benetton  Heinrich  Reed
Boozman  Hertelten  Reid
Boozman  Boozman  Risch
Brown  Burton  Roberts
Burr  Hoven  Rockefeller
Caswell  Inhofe  Rubio
Cardin  Isakson  Sanders
Capito  Johnson (CT)  Schiffer
Chambliss  Johnson (GA)  Scott
Chesley  Kaine  Sessions
Cochrane  Koester  Shelby
Collins  Collins  Stabenow
Collins  Connect  Tester
Coons  Leahy  Thune
Corker  Lee  Toomey
Cornyn  Levin  Udall (CO)
Cowen  Manchin  Udall (NM)
Crapo  McCain  Vitter
Cruz  McGill  Warner
Donnelly  McConnell  Warren
Donnelly  Menendez  Whitehouse
Durbin  Merkley  Wicker
Feinstein  Mikulski  Wyden
Fischer  nanopods

The nomination was confirmed.

The PRESIDING OFFICER (Ms. BALDWIN). Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate’s action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

BORDER SECURITY, ECONOMIC OPPORTUNITY AND IMMIGRATION MODERNIZATION ACT—Continued

AMENDMENTS Nos. 1552 AND 1553 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the pending amendments Nos. 1552 and 1553 are withdrawn.

The majority leader.

Mr. REID. Madam President, the pending business, then, is the committee-reported substitute amendment, with all post cloture time having been expired; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I raise a point of order that the Reed of Rhode Island amendment is no longer in order due to the adoption of the amendment No. 1183.
The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. REID. I raise a point of order that the Cruz amendment is also no longer in order.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. REID. I raise a point of order that the Boxer amendment is also no longer in order.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. REID. I ask unanimous consent that the next two votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, during these votes we are going to try to work out a time to finish our work today. As I mentioned earlier today, whenever we have the final vote—whether it is tomorrow afternoon or, if we can work something out, today—I want everyone to be here a few minutes before the time expires so we can start the vote.

The vote will not start until Senators are in their assigned seats. If they are not here, we will have a live quorum, and all that will do is slow things up. And we are going to do that.

This legislation has been worked on for many years. We have people who believe strongly in this legislation and people who don’t. It is a very important piece of legislation. It is historic in nature, and we should be here to vote, and we are going to be here in our chairs to vote. We don’t have a time worked out yet. We are going to do our best. As my friend the ranking member said, we would like it sooner rather than later, but we can’t get that unless everybody agrees to a time.

The PRESIDING OFFICER. Under the previous order, all postcloture time is expired.

The question is on agreeing to the committee-reported substitute, as amended, as agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of section XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 744, a bill to provide for comprehensive immigration reform, and for other purposes.


The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, is it the sense of the Senate that debate on S. 744, a bill to provide for comprehensive immigration reform and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under this rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 68, nays 32, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—68

Alexander
Ayotte
Baucus
Blumenthal
Brown
Brown
Collins
Cornyn
Corker
Coons
Cochran
Corker
Collins
Cochran
Cornyn
Cruz

Portman
Barrasso
Boozman
Burr
Chambliss
Cochran
Coryn
Crapo
Cruz

Portman
Blunt
Boozman
Burr
Chambliss
Cochran
Coryn
Crapo
Cruz

Barrasso
Blunt
Boozman
Burr
Chambliss
Cochran
Coryn
Crapo
Cruz

BEATTIE, WALKER
fatherhood. Furthermore, the reau-

torization was solely written by Re-

publicans without any Democratic input.

I have nothing but the utmost re-
spect for my distinguished colleague for 

who in my colleague’s strong belief that work is hallowed 

and that it should be a cornerstone of our welfare system.

While I certainly share in my col-

league from Utah’s concern over the unil-

ilateral waiver of legislative require-

ments, I am also a strong supporter of 

finding ways to improve Federal pro-

grams. I agree with the administration 

that innovation often comes from our 

partners in the States. As chairman of 

the Finance Committee, I have pro-

vided Montana and the other 49 States 

numerous opportunities to take initia-

tive and improve our programs. Justice 

Louis Brandeis said, “It is one of the 
happy incidents of the federal system 

that a single courageous state may 
merry over the legitimate experiment 

and try novel social and economic experiments without risk to 

the rest of the country.” Giving 
The 50 States an opportunity to experi-

ment and improve on Federal programs 

allows us to determine what works and what doesn’t.

Allowing our States to have the flexi-

bility to increase their work rates by 

20 percent is a noble goal that improves 

the very foundation of our welfare sys-

tem. I understand that there are con-

cerns about making improvements to the 

Finance Committee, which has jurisdic-

tion over the temporary assistance for 

needy families, or TANF. I strongly op-

posed this effort of the Executive 

branch to bypass the legislative branch 

of government. 

It is the sole responsibility of the 

Senate Finance Committee to develop, 

debate, and enact changes to the TANF 

programs.

The TANF programs have not been 

fully reauthorized for over 10 years and have 

been funded by a series of short term extensions since 2010. During this 
time, poverty and, most distressingly, 

child poverty have risen. It is impera-

tive to families struggling in this dire 

economy that the Senate Finance Com-

mittee act in a bipartisan manner to 

reform and improve the TANF pro-

grams.

In December of last year, colleagues 

can remember that I sent a letter to 

President Obama and then subse-
quent went to the Senate floor and 

formally asked the President to in-

struct the Secretary of Health and 

Human Services to withdraw their un-

constitutional welfare waiver rule and 

submit a comprehensive welfare reform 

plan to the Congress. In my letter and 

my remarks, I made it clear that if the 

President withdrew this waiver scheme 

and sent up a proposal to Congress, 

that I would commit to working with 

him and other Democrats to enact 

comprehensive welfare reform.

I have not sent a letter to the President. I have not gotten a response from the President. The welfare waiver rule remains in effect. The Secretary of Health and Human Services has failed to propose a comprehensive welfare reform 

and sent up a proposal to Congress, 

that I would commit to working with 

him and other Democrats to enact 

comprehensive welfare reform.

According to HHS, no State has ap-

plied for a welfare work waiver. In 

their Statement of Administration Pol-

icy, to H.R. 890, the “Preserving Work 

Requirements for Welfare Programs 

Act of 2013,” the Administration writes that the reason no State has applied for a welfare work waiver is due to “inac-

curate claims about what the policy in-

volves.”

However, the Obama administration 

has refused to elaborate further on 

these waiver policies, and Democrats in 

the Congress have steadfastly resisted 

any effort to rescind the administra-

tion’s welfare waiver scheme.

The insistence on the part of the ad-

ministration that these welfare waiver 

rule remain intact demonstrates to me 

that the administration wants the op-

tion to waive Federal welfare require-

ments at some later date.

Therefore, it behooves those of us 

who support robust welfare work re-

quirement to oppose the administra-

tion’s welfare work waiver scheme and 

work to remove the possibility that the 

Obama administration would approve 

proposals to gut welfare reform.

This has become even more impera-

tive because, as we learn more about 

how the Obama administration de-

veloped their welfare work waiver rule, 

the more it becomes apparent that the 

Obama administration has been dis-

puting the Senate Finance Committee on the specific provisions of the policy and its intended outcomes.

HHS initially justified their welfare 

work waiver scheme by suggesting that 

they were merely doing the bidding of the 

State. They referred to comments 

solicited by them from my State of 

Utah, in 2011, requesting administra-

tive flexibility as justification for ad-

vancing policies that could undercut 

key provisions of welfare reform.

However, in exercising the due dili-

gence oversight role of the legislative 

branch, Ways and Means chairman 

DAVE CAMP and I were able to compel 

HHS into providing an internal memo 

related to the development of the wel-

fare work waiver rule. I ask unanimous 

consent to have this memo printed in the 

RECORD at the conclusion of my re-
mrk.

As my colleagues will see, contrary 
to claims that the Obama administra-

tion was simply capitulating to State’s 

requests for flexibility, this memo re-

veals that, as far back as 2009, policy 

makers in the Obama administration 

were working to determine which pro-

visions of welfare reform could be
waived or disregarded. Therefore, the claim that the Obama administration was merely capitulating to states’ request for administrative flexibility is disingenuous, at best.

A careful review of this memo furthers conclusions that HHS attorneys have concluded that the Secretary has the authority to allow States to ignore prohibitions on Federal welfare spending which would “permit a state to extend assistance to a family for which assistance is prohibited under Section 408 of the Social Security Act.”

Mr. President, the following individuals and activities are prohibited under section 408 of the Social Security Act: fugitive felons and parole violators, families where the adult has exceeded 5 years of assistance, noncitizens with a five-year ban on assistance as described in section IV of the Personal Responsibility and Work Opportunity Reconciliation Act, and medical services, such as abortion.

Under S. 744, the legislation before the Senate today, the prohibitions detailed in title IV of PRWORA for Federal welfare spending on certain prohibited groups of noncitizens—in other words, the ability as cash welfare, are extended to registered permanent immigrants, blue card holders, and aliens admitted to the United States under 101(a)(15)(V) or 101(a)(15)(Y).

However, under HHS’s current interpretation of section 1115 authority, since title IV can be ignored, Federal welfare benefits could be paid to these groups of noncitizens.

I have always supported the current bill before the Senate, and I committed to working with Senator Rubio and others to try and improve the bill so that it can garner broad bipartisan support.

I initially filed an amendment that would have prevented the Obama administration from potentially gutting welfare reform and explicitly prohibited them from permitting the types of spending outlined in section 408 of the Social Security Act. This amendment was deemed too broad to be relevant to the immigration debate by the Democratic majority.

So, in the spirit of compromise, I agreed to limit my amendment to only apply to the section of 408 dealing with noncitizens—in other words, the ability of Obama administration to waive work requirements and permit Federal welfare spending on certain prohibited individuals.

The Obama administration’s interpretation of their 1115 waiver authority is and will remain an impediment to successfully improving and reauthorizing the TANF programs. This is because any compromise will have to be understood by this or any other administration. I take the chairman at his word that he intends to pursue a bipartisan consensus on improvements to the TANF programs, but I need to stress that this consensus will be difficult to reach as long as this or any future administration can waive key features of a compromise reached by the Congress.

This Senator remains baffled why the Obama administration is so reluctant to engage in a discussion of welfare reform.

To this date, nearly a year after the Obama administration went public with its proposed waiver rule, they have not issued a single clarification on what work or work-related activity they wanted to allow states to count as work and why the current flexibility in TANF is insufficient. It appears that despite my entreaty last year for the Obama administration to engage in a dialogue about improving the TANF programs, their strategy for the immediate future appears to be one in which they will simply let TANF wither on the vine.

I do not want that to happen. TANF provides critical support of working families and helps States provide services to vulnerable children. But too much of TANF spending is unaccounted for, and programs funded by TANF dollars may not be coordinated with other efforts directed towards at risk populations.

The robust welfare-to-work programs from 20 years ago have virtually vanished.

I know that the chairman of the Senate Finance Committee shares my concern about the qualifications of waivers under TANF. I understand he has a different perspective on the administration’s intentions relative to their welfare waiver policies.

I hope to be able to work with Chairman BAUCUS and the other members of the Senate Finance Committee to propose commonsense reforms to the TANF programs during this session of Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


To: Mark Greenberg, Deputy Assistant Secretary for Families From: Chief of Litigation, Children, Families and Aging Division

Subject: Authority Under Section 1115 of the Social Security Act

This memo responds to your request for a legal opinion regarding the breadth of the Secretary’s authorities under section 1115 of the Social Security Act (Act), 42 U.S.C. 1315, with respect to title IV–A of the Act. Specifically, you are interested in better understanding the Secretary’s authority to deviate from the state plan requirements for the Temporary Assistance for Needy Families (TANF) program and to allow states to spend TANF, Healthy Marriage and/or Responsible Fatherhood program funds for certain purposes beyond those specified in sections 403 and 404 of the Act. As explained below, for a proper section 1115 demonstration project, the Secretary may waive compliance with any state plan requirements in section 402 of the Act, as well as any other requirement incorporated therein. The Secretary also may allow a state to use IV–A Funds for costs that otherwise would be impermissible under that title. Section 1115 does not provide direct relief from state penalties under section 409 of the Act but may factor into the penalty relief available under section 409 itself. Thus, the Secretary’s actions, as proposed in your November 17, 2009, e-mail, under section 1115 of the Act.

S5332 CONGRESSIONAL RECORD — SENATE June 27, 2013

SECTION 1115 AUTHORITIES

Section 1115(a) of the Act provides the Secretary of Health and Human Services ("the Secretary") with two types of discretionary authority to exempt a State from otherwise-applicable IV–A rules so that it may implement a demonstration project that, in the Secretary’s judgment, "is likely to assist in promoting the objectives" of title IV–A. 42 U.S.C. § 1315(a).

First, under section 1115(a)(1) of the Act, the Secretary "may waive compliance with any of the requirements of section . . . to the extent and for the period [she finds necessary," id. § 1315(a)(1), and may regard otherwise impermissible expenditures as permitted to the extent and for the period [she] prescribe[s]." id. § 1315(a)(2)(B). Thus, pilot projects are limited in scope and duration, consistent with their experimental nature.

Section 1115 waivers are subject to judicial review under the Administrative Procedure

PRECONDITIONS FOR SECTION 1115 PROJECTS

Section 1115 applies to only (1) experimental, pilot, or demonstration projects that (2) in the judgment of the Secretary are likely to assist in promoting one or more of the objectives of this Act. In this case, title IV–A of the Act, (3) to the extent and for the period the Secretary finds necessary, for the immediate future appears to be one in which they will simply let TANF wither on the vine. The robust welfare-to-work programs from 20 years ago have virtually vanished. I know that the chairman of the Senate Finance Committee shares my concern about the qualifications of waivers under TANF. I understand he has a different perspective on the administration’s intentions relative to their welfare waiver policies.

I hope to be able to work with Chairman BAUCUS and the other members of the Senate Finance Committee to propose commonsense reforms to the TANF programs during this session of Congress. There being no objection, the material was ordered to be printed in the RECORD, as follows:


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Act. See Beno, 30 F.3d at 1067; G. v. Hawaii, 2009 U.S. Dist. LEXIS 39851 (D. Haw. May 11, 2009). Courts have recognized that the Secretary has broad authority under section 1115 to approve plans that waive requirements under section 1115 should he uphold unless it is arbitrary, capricious, or contrary to law. See Georgia Hospital Ass’n v. Department of Medicine, 352 F. Supp. 2d 467 (S.D.N.Y. 1971); Crane v. Mathews, 417 F. Supp. 532 (N.D. Ga. 1976); California Welfare Org. v. Richardson, 348 F. Supp. 491 (N.D. Cal. 1972); Magadan v. Musburger, 459 F. Supp. 70–70 (S.D.N.Y. 1971), aff’d 473 F. 2d 1090 (2d Cir. 1973).

Assuming that a state’s project satisfies these terms, the Secretary may address the particular IV–A provisions referenced in your e-mail as follows:

Can the Secretary permit a state to operate under a different set of participation rate requirements other than those specified in Section 407, or to be accountable for negotiated outcomes rather than the TANF participation rates?

Yes. Although work participation rates are found in section 407, which may not be waived under the terms of section 1115(a)(1), section 402(a)(1)(iii) requires that the State plan “[e]nsure that parents and caretakers receiving assistance under the program engage in the prescribed work activities in accordance with section 407.” Because this section 402 requirement incorporates section 407, “‘Work Requirements,’” the Secretary’s authority may reasonably extend to section 407, as well.

However, the extent to which section 407 may be incorporated for purposes of section 1115 in lieu of section 402(a)(1)(iii)’s limitation, “in accordance with section 407,” could be read to modify or apply only to section 407(d), because section 402(a)(1)(iii) expressly refers to those “‘work requirements’” in section 407, which are defined in section 407(d). Thus, a more conservative approach to section 1115(a)(1) would limit a waiver of section 402(a)(1)(iii) to a state to define work activities differently than Congress did in section 407(d), but otherwise leave the rest of section 407 intact.

Alternatively, “in accordance with section 407 could he read to modify the entire clause, i.e., ensuring that recipients engage in the prescribed work activities. In other words, if section 402(a)(1)(iii) requires not merely that the work activities defined in section 407(d) but also that the state have in place section 407’s comprehensive scheme to “ensure” that families work, including through the participation rates, then a waiver could reasonably reflect the breadth of the state plan requirement itself. In short, section 402(a)(1)(iii)’s use of “in accordance with section 407(d)” is sufficiently ambiguous that a broader view of the scope of the potential waiver is a defensible, although perhaps riskier, interpretation.

Can the Secretary permit a state to spend TANF funds for a benefit or service beyond those allowable under Section 409?

Yes. Even section 1115(a)(2), the Secretary may allow a state to use its IV–A funds to pay for costs that would “not otherwise be a permissible use of funds under part A of title IV,” regardless of which section of title IV–A would render the cost impermissible.

Can the Secretary broaden allowable expenditures under the marriage and responsible fatherhood promotion grants beyond those specified in Section 403?

Yes. Unlike other titles covered by section 1115(a)(2), the Secretary may allow a state to use the federal funds for which Federal program funds may be used. For example, for title IV–D, section 1115(a)(2)(A) only allows the use of IV–D funds to pay for expenditures that would not be allowed under section 450 of the Act. 42 U.S.C. § 605. Thus, section 1115(a)(2)(B) would not authorize the use of IV–D funds to pay for costs that would not be allowed under section 469B (Grants to States for Medicaid and CHIP Expenses) even though this latter section is part of title IV–D, too. As stated above, under section 1115(a)(2), the Secretary may allow a state to spend IV–A funds for costs that would “not otherwise be a permissible use of funds under part A of title IV,” regardless of which section of title IV–A would “not otherwise be a permissible use of funds under part A of title IV–A,” including those in section 403.

Can the Secretary permit a state to extend assistance to a family, or which assistance would otherwise be prohibited under Section 409?

Yes. Section 409 of the Act lists additional (i.e., non-state plan) prohibitions and requirements on the use of IV–A funds. To the extent that this section prohibits the use of IV–A funds, the Secretary may allow a state to spend IV–A funds for costs that would otherwise be an impermissible use of funds under section 1115(a)(2) to regard a state’s expenditures therefor as permissible. Thus, even though section 404 of the Act generally prescribes a state’s use of its TANF grant, the Secretary may allow a state to use its TANF grant to provide assistance to a family for more than five years. Although this is not a state plan requirement, and thus may not be waived under section 1115(a)(1), the Secretary may allow a state to use its TANF grant to provide assistance beyond this five-year period as part of a demonstration project, using her authority under section 1115(a)(2).

Can the Secretary provide that a penalty otherwise applicable under Section 409 does not apply?

Yes. Section 1115 does not reference section 409 of the Act, 42 U.S.C. § 609, which provides for penalties against states that violate various provisions of the Act. Section 409 is neither incorporated by section 402 as a state plan requirement that can be waived under section 1115(a)(1) nor reflective of costs that would otherwise be impermissible under title IV–A. Furthermore, the Secretary may provide opportunities for a state to avoid a penalty while encouraging implementation, it may be possible to use the existing framework of section 409 to find “reasonable cause,” if a state’s section 1115 project were to cause it to incur the penalty.

Depending on the kind of penalty at issue, section 409(b) prohibits the Secretary from imposing a penalty “if the Secretary determines that the State has reasonable cause for failing to meet a requirement.” To the extent that a state fails to meet a requirement due to its participation in a section 1115 project, it may be appropriate for the Secretary to find “reasonable cause” for the state’s failure. For example, if a State has a section 1115 project that allows it to spend IV–A funds on assistance beyond the five-year period authorized in section 408(a)(7), it may be possible to justify forgoing a penalty under section 409(a)(9) based on the reasonable cause exception, because the state had permission to use the funds in that manner. This is similar to the approach taken with respect to waivers for penalties attributable to providing federally-recognized domestic violence waivers. See 45 C.F.R. § 260.58(a) (state must demonstrate that it met work participation rate requirements except with respect to any individual who received federally-recognized good cause domestic violence waiver of work participation requirements). Although section 1115 waivers are not expressly referenced in the IV–A “reasonable cause” regulation, see 45 C.F.R. § 262.5, the preamble to the rule clarifies that the list of factors in 45 C.F.R. § 260.58(a) is not exclusive. In determining that a State had reasonable cause based on other factors, we do not want to preclude a State from presenting other circumstances.

In addition, section 409(c) of the Act requires that a state have the opportunity to enter into a corrective compliance plan for waivers it made, and to the extent that a state’s participation in a section 1115 demonstration project adversely impacts its ability to satisfy requirements covered by section 409, the state may take this into account in the corrective compliance plan.

CONCLUSION

Most of the proposals identified in your November 17, 2009, e-mail appear to be defensible exercises of the Secretary’s discretion under section 1115 of the Act. However, whether a particular project is legally supported will depend on the circumstances surrounding that project. We are available to assist you, if you decide to pursue further any of these or other ideas using IV–A funding. Please contact me at 202–690–8005, if you have any questions.

ICHIA

Mr. ROCKEFELLER. Madam President, I would like to take a few moments with my friend Chairman LEAHY to discuss the ongoing importance of the Children’s Health Insurance Program Reauthorization Act’s impact on lawfully residing noncitizen children and pregnant women. In that 2009 legislation, States were given the option to provide Medicaid and State Children’s Health Insurance Program—CHIP—benefits to these populations without first imposing a waiting period, and many did so as an investment in future generations. The right to health care doesn’t end on S. 744, some of my colleagues spent a considerable amount of time seeking to deprive lawfully present noncitizens of the protections of our vital safety net programs. I consider these efforts to be contrary to the value that we, as Americans, place on protecting the most vulnerable among us.

Chairman LEAHY’s leadership has been critical to the passage of this historic legislation in the Senate, and I thank him for being a strong voice in favor of protecting federal credits for children and pregnant women. As you know, children’s health has been one of my top priorities throughout my time in the Senate. Although the immigration reform bill that passed the Senate does limit certain noncitizens’ eligibility for some Federal benefits, I am pleased the Senate chose to preserve States’ rights to extend full Medicaid and State Children’s Health Insurance Program benefits to children and pregnant women granted legal status under the bill, individuals and families granted Registered Provisional Immigrant—RPI, Blue Card, and V-visa status.
VerDate Mar 15 2010 04:54 Jun 28, 2013 Jkt 029060 PO 00000 Frm 00020 Fmt 0624 Sfmt 0634 E:\CR\FM\G27JN6.075 S27JNPT1PWALKER on DSK7TPTVN1PROD with SENATE

Now, I would like to repeat something that Senator ROCKEFELLER just said. The bipartisan immigration reform bill explicitly states that children and pregnant women granted RPI, Blue Card, and V-visa status are considered lawfully residing in the United States. It is true that the bill contains language making these three categories of immigrants ineligible for “any Federal means-tested public benefits” as “defined and implemented” in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act.—PRWORA, the Federal law that limits some noncitizens’ eligibility for certain Federal programs. However, this language does not eliminate the States’ right to exercise the ICHIA option.

Mr. ROCKEFELLER. Now, I would like to direct a question to my friend Chairman LEAHY. Just to be clear, provisions in the bipartisan immigration reform bill do not eliminate a State’s statutory right to extend Medicaid and CHIP to any lawfully residing noncitizen child or pregnant woman, including those receiving RPI, Blue Card, or V-visa status. Is this correct, Mr. Chairman?

Mr. LEAHY. Yes, that is correct. Now, was it our intention throughout the negotiations to eliminate this State right?

Mr. ROCKEFELLER. A closer look at the language in PRWORA and the Social Security Act confirms that the immigration bill does not eliminate the States’ right to use the ICHIA option to provide coverage to lawfully residing children and pregnant women. The States’ option to extend coverage to these individuals is not “implemented” in section 403 of PRWORA, the provision of law impacted by the immigration bill, but instead exists independent of PRWORA under section 403 of the Social Security Act.

I would also like to point out to our colleagues that the Congressional Budget Office—CBO—had a similar interpretation of the language in S. 744. CBO made an assumption that, under this language, Federal agencies would permit some individuals with RPI, Blue Card, or V-visa status to receive benefits from Federal means-tested programs, and specifically incorporated into its estimate of the bill the costs of providing Medicaid and CHIP coverage under ICHIA to children and pregnant women.

Mr. LEAHY. Senator ROCKEFELLER is correct. The Senate had full knowledge of CBO’s interpretation and cost estimate when it negotiated a bipartisan amendment that became the text of the final bill. This bill does not to modify the provisions relating to the application of benefits under PRWORA, thus retaining the language that permits coverage under ICHIA of individuals with RPI, Blue Card, or V-visa status. The Senate did accept an amendment which states that “No officer or employee of the Federal Government may waive” compliance with PRWORA, or the bill’s prohibition on accessing benefits that are defined and implemented in PRWORA. But these provisions, too, are inapplicable to a State’s option under ICHIA. As my colleague Senator ROCKEFELLER mentioned before, the ICHIA option is not a waiver and remains available for States regardless of any action by an “officer or employee of the Federal Government.”

Mr. ROCKEFELLER. Moreover, by using the term “waive” in section 2323, the Senate is attempting to prohibit Federal officials from using their waiver authority under certain means-tested programs—such as those afforded to agencies in relation to demonstration projects—in a way that would result in noncompliance with PRWORA. This narrow prohibition on the use of waivers by Federal officials cannot be construed to prevent the continued implementation of an explicit, independent right afforded to the States under ICHIA. The ICHIA option is not a waiver and remains available for States regardless of any action by an “officer or employee of the Federal Government.”

Mr. ROCKEFELLER. I share the Chairman’s disappointment that the Senate decided to add section 4417 to explicitly exclude students and tourists from ICHIA coverage, but I also agree with him that by not excluding other categories of lawfully residing noncitizens in section 4417, such as those granted RPI, Blue Card, or V-visa status, the Senate intended to preserve their benefits.

One of the hallmarks of our Nation is our willingness to protect the most vulnerable among us. People from all over the world want to be part of America because of our deeply-rooted respect for human dignity. Although it is not perfect—few laws are—the bipartisan immigration bill passed by the Senate this week lives up to those values in so many ways. It brings millions of hard working people out of the shadows, gives young students an opportunity to earn citizenship by furthering their education or serving in the military, reunites families, and in the process, removes the fear and uncertainty that many undocumented people face every day. It achieves balance by recognizing the right of States to extend the benefits of poised health care for noncitizen children and
pregnant women who earn legal status under the bill. Immigrants are not under any illusions that they will qualify for lavish benefits under our Federal programs when they arrive on our shores. But under the bill, I am afraid that when medical needs arise or a medical disaster strikes, the vast majority of noncitizen children and pregnant women will be covered.

I yield the floor.

Mr. KING. Madam President, I would like to discuss my J-1 visa amendment to the immigration bill, which was incorporated into the Corker-Hoeven amendment. The purpose of the amendment is to increase transparency and accountability of exchange visitor programs that operate under the J-1 visa category, while ensuring the continued existence of the J-1 program.

I proposed the new subtitle I in title III, with the support of my friend from Wisconsin, Mr. JOHNSON. While the original subtitle F protections applied across a range of visas that have a work component, the J-1 visa category is fundamentally different from the other visas originally included in subtitle F. The J-1 category simply requires treatment to ensure increased protection of J-1 visa holders and the long-term viability of this important diplomatic program.

I appreciate the support of the senior Senator from Connecticut, the original sponsor of subtitle F, and would like to further clarify the intent of our amendment.

Throughout the crafting of our amendment, I acknowledged that there are legitimate concerns with some J-1 programs. There have been instances in the Summer Work Travel Program where student placements have been inappropriate for the purposes of true cultural exchange.

As S.744 was reported from the Judiciary Committee, however, the intended reforms would have made it impossible for high quality sponsors to continue to administer the Exchange Visitor Program. Without an amendment, this important public diplomacy tool would have been lost.

Our amendment strikes “exchange visitors” from the definition of “worker” in subtitle F. Subtitle F is aimed at foreign labor contracting activity and creates important new protections for foreign workers in the U.S.—we did this because J-1 exchange visitors are not primarily workers, but instead cultural exchange participants. We believe this amendment to the bill makes clear that neither exchange visitors nor sponsors of J-1 programs are subject to the new requirements of Subtitle F, and that J-1 sponsors are not considered foreign labor contractors or recruiters.

As with any compromise, subtitle I is not 100 percent perfect. But it includes several important elements. Most vital, the amendment allows these valuable programs to continue and provides key protections to ensure participants remain safe. The Department of State has strengthened its regulations in recent years, and our amendment will help further that process. I believe our amendment makes the exchange visitor program stronger and ensures that international and American businesses have clearer rules to continue this important public diplomacy tool.

I appreciate the collaborative effort of my colleagues, particularly the Senators from Wisconsin, Wisconsin, for helping to craft legislation that improves the J-1 exchange visitor program. I look forward to continuing to work with them as this bill moves forward.

Mr. ENZI. Madam President, I rise to speak about why this body should reject the amended version of the immigration bill. I believe our immigration system is broken. As a matter of fact, I know the Senate could agree unanimously on the fact that our immigration system is broken. This includes both the legal system which allows individuals to visit and work in our country in addition to the failures which continue to allow others to reside illegally and fraudulently. The intentions of the Senate Judiciary Committee and the sponsors of this bill are correct. Those Senators deserve credit for their work on the bill over the past few months. However, as we approach finalization of this legislation, I have to say respectfully disagree with the final product and its failures to make fixes in several key areas.

The first key fix rests in the fact that the United States remains a place of opportunity. The whole reason why people want to come to the United States is because of jobs. In order for immigration reform to work we must have a strong, workable employment verification system in place. If Congress can authorize employment of unauthorized workers, who cannot get jobs cannot afford to stay in the United States illegally. This immigration bill works towards making E-Verify mandatory. I agree with this goal, but as a former small business owner familiar with this process, I also recognize that this bill fails to strengthen protections against the fraudulent use of identifiers used in the E-Verify process. It is particularly Social Security cards and Social Security numbers. Small business owners by nature do a lot. They mop floors, make sales, greet customers, do the accounting, set up computers, and pay the bills. However, you should not have to ask a business owner to act as a customs agent and determine if the government issued documents presented to them are authentic. One recent study suggests that the current E-Verify error rate for unauthorized workers is 10 percent. This is important to the fact that even though the system says that a particular person is legal, there is no way for the employer to know for certain if that worker is really who they claim to be.

The proposal before us attempts to address this problem through a photo-matching tool. However, the verification system does not have photos for the more than 60 percent of Americans who do not have a U.S. passport and relies on States to be able to provide driver’s license records on a voluntary basis. This legislation allows a fundamental flaw in the E-Verify system to exist, making it even more difficult for employers to ensure that the people they hire are lawful. Several of my colleagues have filed amendments to fix these problems. I know that this is something Senator PORTMAN has worked on extensively and I support his efforts. Unfortunately, the necessary changes have not been made to E-Verify and it is difficult for me to support a bill knowing that it fails to provide small business owners with the tools they need to efficiently and accurately verify the identity of new employees.

Another draw to the United States happens to be the Federal welfare and tax benefits that workers receive. My colleague Senator HATCH has been working on several amendments, which I support, that ensures non-citizens do not benefit from these federal programs. Amendment No. 1246 clarifies that the U.S. Department of Health and Human Services cannot undermine welfare reform so that non-citizens receive welfare. Additionally, I support Hatch amendment No. 1247 that ensures back taxes are collected for applicants under the Registered Provisional Immigrant program. Failing to fix these draws to our country undermines immigration reform, incentivizes illegal behavior and adds costs to Americans who lawfully pay their taxes.

Second, dependable border security and interior enforcement is crucial to the entire immigration system. I voted for several amendments in this debate which would enact firm border security and enforcement triggers. One lesson from previous immigration efforts is that we cannot reduce illegal immigration without better border security and entry/exit enforcement measures. I cannot support the amended version of the bill because it offers false promises about border security and enforcement measures. I do not deny the submission of a border security plan makes our nation safe, particularly when current law is not being enforced. Border agents are added but not before the provisions of the underlying bill go into effect. I think the Senate should take a lesson from history. Failing to secure the border and ignoring enforcement will not reduce illegal immigration.

Finally, I think it is also important to discuss the things that have not been done to fix the underlying bill. The Senate has been on this bill for nearly 3 weeks. In that time, the Senate has only voted on nine amendments. It appears clear
now that few if any more amendments will be considered as we approach final passage which makes it difficult to make any real common sense changes to the bill. I believe that part of the reason is because the bill is being considered in an eminently reasonable reform. Comprehensive bill that gives everyone an opportunity to oppose the bill. This Senate wants a legitimate fix to immigration. The best way to do that is to focus on one piece at a time. For example, had more attention been focused on E-Verify as a standalone bill, I am confident that we could find a way to ensure that the program works effectively for small businesses and helps deter the incentive for illegal behavior.

For these reasons I will be voting against final passage. I understand that we all want to fix our immigration system, but I cannot find the resolve to support legislation that misses the mark on so many levels. I am hopeful that more work will be done on fixing our immigration system but I hope that it is part of our country’s interest of our economy, national security and moral obligations as a country.

Mrs. MURRAY. Madam President, I rise today to discuss the passage to be given the immigration reform bill. For the first time in a generation, the Senate has passed a bill that brings us one crucial step closer to sensible immigration laws. This is a historic day for the Senate, for our economy, and for our country itself. But there is more work to be done before this bill becomes law.

When we began consideration of the Border Security, Economic Opportunity, and Immigration Modernization Act, I gave a speech in which I quoted from a book that John F. Kennedy wrote while serving in this Chamber. He wrote, “Immigration policy should be generous; it should be fair; it should be flexible. With such a policy we can travel towards the world, and to our own past, with clean hands and a clear conscience.” Today we can turn to the world proudly, with a clear conscience, and say this bill lives up to our ideals and our American values, to say that it will provide millions of aspiring Americans the opportunity to come out from the shadows, realize their dream of citizenship, and be strong threads in the rich fabric of this great nation.

From the beginning of this process, I have had conversations with my colleagues regarding my priorities for immigration reform, and this bill takes steps to achieve each of them. First, this legislation provides a real pathway to citizenship for the 11 million undocumented people already living in the United States. These families already work alongside us, attend our churches, and send their children to our schools—and they deserve the benefits and responsibilities of American citizenship. This bill also makes important reforms to help our economy, from agricultural businesses in central and eastern Washington to our expanding high-tech corridor in the Puget Sound.

It can and should do more, but this legislation includes provisions to treat immigrants with dignity and help reunite families separated by our outdated laws. Finally, it provides Washington State’s 33,000 DREAMers, children brought to this country at a very young age, with the chance they deserve to succeed in America. This bill allows future immigrants to come out from their loved ones.

I am also pleased this bill offers important reforms in the employment-based immigration system. There is a clear need to expand legal avenues for workers to immigrate to the United States in a safe and orderly manner. The size of this workforce must be flexible to meet the needs of our diverse industries and must be responsive to changes in our economy. This bill is a step in the right direction. It will allow the immigration system to more responsive to the needs of the marketplace and will enable businesses to attract and retain a capable, stable, legal workforce.

This bill isn’t perfect and it is not the bill I would write on my own, but it is the result of a bipartisan compromise, and I am proud to support it as a strong step in the right direction. Although I have concerns about some elements of the bill, it makes critical changes to our broken system that will strengthen our country and grow our economy.

Over the past weeks, I offered a number of amendments that would have made commonsense improvements to the bill. Importantly, three of my amendments would have made this bill more inclusive of women.

Too often women in the developing world are not offered the same educational and employment opportunities afforded to men in those countries. This fact places women at a competitive disadvantage under a merit-based system that rewards education, job promotion, and career advancement. That is why I worked with my colleagues, Senator Mazie Hirono of Hawaii and Senator Lisa Murkowski of Alaska, to introduce my first amendment, which would provide 30,000 green cards for occupations held by lower income women in our country. The second amendment would accomplish this by creating a third tier in the merit-based point system that would have complemented the highly educated tier one system and the moderate to lower skilled tier two system. I was deeply disturbed to learn that some pregnant women in immigration detention are shackled, including during labor and delivery. While the Department of Homeland Security recently adopted performance standards that require pregnant and postpartum women to be treated humanely, this amendment would have complemented the highly educated tier one system and the moderate to lower skilled tier two system.

I am deeply disturbed to learn that some pregnant women in immigration detention are shackled, including during labor and delivery. While the Department of Homeland Security recently adopted performance standards that require pregnant and postpartum women to be treated humanely, this amendment would have complemented the highly educated tier one system and the moderate to lower skilled tier two system. I was deeply disturbed to learn that some pregnant women in immigration detention are shackled, including during labor and delivery. While the Department of Homeland Security recently adopted performance standards that require pregnant and postpartum women to be treated humanely, this amendment would have complemented the highly educated tier one system and the moderate to lower skilled tier two system.

I am going to keep working to improve this bill as it continues its legislative process. For example, after years of debate, the Violence Against Women Act, VAWA, now becomes law. I am going to work to ensure it is implemented in a way that works for families and communities. We must start by pairing unprecedented spending on new border security with responsible oversight, so I will be working closely with the Department of Homeland Security to ensure our efforts to secure the border do not violate the civil liberties of American families and communities. I am proud of my amendment to address warrantless searches and detainee absents additional extraordinary circumstances, a significant portion of Immigration and Customs Enforcement, ICE, detainees are held in county jails by local law enforcement. These holding centers are not required to follow the Department’s standards.

Shackling during labor, delivery, and postpartum recovery increases the risk of harm to the fetus, it inhibits medical staff’s ability to respond to emergencies, and it increases the discomfort and pain of the childbirth. That is why I introduced my second amendment to extend the prohibition against shackling to include all pregnant women held for immigration purposes, including those held under an immigration detention issued by a Federal agency. This bipartisan amendment was sponsored by Senator Mike Crapo of Idaho, provided for certain exceptions to the ban due to extraordinary circumstances, while also prohibiting certain types of restraints known to cause tripping, falling, or that stop a mother from holding her hands above her head. Simply put, a woman should never have to endure the pain, embarrassment, and extreme discomfort of being restrained while giving birth to her child, nor should she have to fear she will lose her child or be afraid to go in the way in which she is detained. Our immigration enforcement policy should always uphold our commitment to civil liberties and safeguard the dignity that every mother deserves. My amendment would have done just that.

My third amendment would have extended protections for the most vulnerable, including domestic violence survivors whose visa depends on their abuser’s sponsorship. I drafted a comprehensive amendment designed to protect immigrant survivors of domestic violence, sexual assault, human trafficking, stalking, and dating violence. It would have extended judicial review in certain cases, would have modified the Violence Against Women Act, VAWA, cancellation of removal process, and would have provided training for Federal officers on vulnerable populations among others. It would have also extended certain safety-net benefits to immigrant survivors to help them escape violence, gain independence, and recover from physical and emotional abuse.
That is why I offered an amendment that would have strengthened the Department of Homeland Security’s Office for Civil Rights and Civil Liberties by amending current law to clarify its jurisdiction and the scope of its authority to conduct investigations, require the agency to conduct reviews and reporting requirements to Congress, and ensure the Department’s timely implementation of its recommendations and findings. Essentially, the amendment would have provided the office with the tools and resources it needs to conduct effective oversight, provide substantial and timely responses, and to protect the Department’s commitment to civil rights and liberties.

I also authored an amendment that would have required the Department to report on the use of force during immigration enforcement. By better understanding how and why force is being used, the Department would have been better equipped to ensure its policies and procedures are protective and provide humane, fair, and humane enforcement practices.

While I am committed to proving Federal law enforcement and border security the resources, training, and personnel they require, Congress must also ensure detainees are treated with respect and dignity. I will be working closely with the Department of Homeland Security to ensure our efforts to secure the border don’t violate the civil liberties of American families and communities.

I have also introduced a number of other amendments over the past weeks, including an amendment to provide Dreamers access to affordable college education. I was disappointed these amendments were not added to the bill, but I will continue to work with my colleagues to push for these commonsense reforms.

Although I have concerns about some elements of the bill, it makes critical changes to our broken system that will strengthen our economy, grow our economy, and finally allow millions of families to gain citizenship and chase their dreams without fear of deportation. This sweeping legislation is a step in the right direction, and I am proud to cast my vote today. I support S. 744, Border Security, Economic Opportunity, and Immigration Modernization Act.

Mr. LEVIN. Madam President, I will support the Border Security, Economic Opportunity, and Immigration Modernization Act.

This comprehensive approach will bring order to the visa program for H–1B applications and H–2A agricultural guest workers, thereby enhancing their contributions to the U.S. economy. The legislation protects our workforce by ensuring employers who knowingly hire, recruit, refer, or continue to employ an unauthorized immigrant or fail to comply with E-Verify requirements are appropriately sanctioned. I believe that it is imperative that those who followed the rules receive legal status before those who didn’t, and this bill does that. The bill also creates a tough but fair legalization process for undocumented immigrants to apply for registered provisional immigrant, RPI status if they have been in the U.S. since December 31, 2011, have not committed certain crimes, and pass background checks, and pay penalty fees.

The bill recognizes those who came here as young children illegally, through no fault of their own, and provides them with an expedited pathway to legal permanent resident status.

The bill also includes provisions supported by both labor and business organizations that update the non-immigrant visa processes to respond to workforce needs. It includes important provisions to help unify families and to support adoptions. And it corrects problems that we currently have in the immigration removal, detention, and courting process. It provides greater penalties for those who engage in criminal activity.

It protects refugees, who come to our country seeking protection from persecution. The bill streamlines processing by refugees and asylum-seekers, eliminating the 1-year asylum filing deadline, eliminating family reunification barriers for asylees and refugees, authorizing streamlined processing of certain high-risk refugee groups, giving legal representatives greater jurisdiction over an asylum claim after credible fear is shown, and permits qualified stateless individuals to apply for lawful permanent resident status.

This legislation will help our economy grow. And according to the Congressional Budget Office, the legislation will decrease Federal budget deficits by about $197 billion over the 2014–2023 period. It will increase Federal revenues by $459 billion over the 2014–2023 period.

I congratulate and thank my colleagues for all of their hard work on this important legislation. The Senate worked in a bipartisan fashion on a nonpartisan issue. I am hopeful that the House of Representatives will do the same.

LOGGING EMPLOYMENT

Ms. COLLINS. Madam President, I rise to speak on an issue of significant importance to the forest products industry. We have been joined here by my colleague from Maine, Senator KING. We have both heard from a number of our constituents in Maine who are concerned about the ambiguity in the bill that is currently before the Senate, the Border Security, Economic Opportunity, and Immigration Modernization Act, with regard to the definition of “agriculture employment” for the purposes of the proposed W agriculture visa program. I would like to turn to Senator KING to elaborate before we’ve heard from constituents in our State.

Mr. KING. I thank Senator COLLINS for her work on this issue. During the last logging season, 79 logging workers were granted H–2A visas for work in Maine. They were able to do this because the Department of Labor included logging employment as a covered occupation for the H–2A program by a December 18, 2006 rule. In the rule, the Department received two comments in support of including logging employment and no comments in opposition for purposes of the H–2A program. The Maine companies we have heard from are not looking for a special carve-out for the logging industry, but they want to make sure that their industry, which currently uses the H–2A program, is not excluded from the new W program that would replace the H–2A program. I ask the Senator from Vermont, who had such a hand in crafting this legislation, whether he is understanding that the logging industry, specifically logging employment, as defined in title 20 of the Code of Federal Regulations in section 655.103(c)(4), would be able to access the new W agricultural visa program just as they have the H–2A program.

Mr. LEAHY. I thank the Senators from Maine for raising this issue. I would be glad to clarify that the intent of the legislation is not to exclude logging employment as defined in title 20 of the Code of Federal Regulations in section 655.103(c)(4) from the definition of “agriculture employment” for purposes of the new W agricultural visa, which will eventually replace the H–2A program. Consequently, logging employment would be covered in the definition of “agricultural employment” for purposes of the new W agricultural visa program. I also understand from Senator FEINSTEIN, the author of these provisions, that it was not the intent of the measure to exclude logging employment from the new W visa program for agricultural workers.

Mr. GRASSLEY. I do not support the overall Senate legislation as it is drafted. On this particular matter, I agree with Chairman LEAHY that logging employment was included in the definition of “agricultural employment” for purposes of the new W agricultural visa program. Those workers that previously had access to the H–2A program should have access to the new W agricultural visa program. This bill should have access to the new W agricultural visa program. The bill should have access to the new W agricultural visa program.

Ms. COLLINS: I thank my colleagues for this clarification. This will maintain the status quo by allowing loggers, who currently enter the United States under the H–2A program, to enter the United States under the new W agricultural visa program. A reliable supply of labor, when American workers are not available, is critical for downstream industries such as paper mills in Maine.

I now wish to speak on an issue of significant importance to the forest products industry in Maine. The immigration bill before the Senate includes an ambiguity related to the definition of “agricultural employment” for purposes of the new W agricultural visa program before the Senate.

Mr. KING. I thank Senator COLLINS for her work on this issue. During the
program. Currently, logging employment is included in the H–2A visa program, pursuant to a rule adopted by the Department of Labor in 2008. The new W agricultural visa program will replace the H–2A visa program. Therefore, I wanted to make sure the logging workers currently eligible for the H–2A visa will be eligible for the new W agricultural visa program. My constituents are not asking for a carve-out or special favor. They are simply asking that the status quo be maintained in the new program.

Consequently, my colleague, Senator KING, and I engaged in a colloquy with the managers of the bill, Senators LEARY and GRASSLEY, to clarify that the intent of the legislation is not to exclude logging employment, as defined in title 20 of the Code of Federal Regulations in section 655.103(c)(4), from the definition of “agricultural employment” for purposes of the new W agricultural visa program. I am grateful to my colleagues for making this clarification.

In addition, I received a letter from Secretary Vilsack of the U.S. Department of Agriculture on this issue.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

In this letter, Secretary Vilsack said that she is committed to working with Congress on this issue and working “to implement the W Agricultural Visa program so that it covers logging to the extent possible, since those workers have historically been eligible for the prior H–2A agricultural worker program.” I thank Secretary Vilsack for his commitment and look forward to working with him on this topic.

This is an important issue to my State of Maine and I thank my colleagues and Secretary Vilsack for working with me on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


HOR. SUSAN M. COLLINS, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS: Thank you for taking the time to meet with me on Monday to discuss S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act and the benefits it brings to agricultural communities. As I mentioned, S. 744 will create a new role for the U.S. Department of Agriculture (USDA) and a new structure for agricultural labor. This stems from my concern that we need to pass a bill that is the product of extensive bi-partisan negotiations and also reflects a consensus among agricultural and farm worker leaders.

During our meeting, you expressed concern about temporary logging employees and whether they will be included in the new W agricultural visa. As you mentioned, these workers will be considered agricultural workers because S. 744 uses the definition set forth by the Migrant Seasonal Worker Protection Act, which excludes logging employees.

At my request, USDA staff looked into this and provided clarification and perhaps some good news. Logging employees, to the extent they would be considered non-agricultural workers, would be eligible to enter under the new W non-immigrant visa for low-skilled seasonal workers committed to working with you and members of Congress to address this important issue as legislation moves forward. I would also work to implement the W–2 program so that it covers logging to the extent possible, since those workers have historically been eligible for the prior H–2A agricultural worker program.

I am convinced that S. 744 is essential to the continued success of American agriculture.

Sincerely,

THOMAS J. VILSACK, Secretary, NATIONAL GUARD

MR. LEVIN. Madam President, I wish to enter into a colloquy with my distinguished friends, Senator SCHUMER and Senator MCCAIN, concerning a provision in the underlying immigration bill, S. 744. They have both played a crucial leading role in moving this important legislation.

Section 1103 of the immigration bill concerns the authority of National Guard forces to provide support to U.S. Customs and Border Protection to assist in the security of the southern border of the United States. The Department of Defense has a number of concerns about this provision and has proposed several ideas for our consideration to address their concerns at the appropriate time.

The concerns are related to language in section 1103 that might have unintended consequences, such as potentially breaching the personnel end-strength levels that are authorized and funded in the annual National Defense Authorization Act or imposing large costs on the Defense Department for a mission of the Department of Homeland Security. The Department would also want to ensure that the authority for Defense Department security, including National Guard support, resides with the Secretary of Defense.

These concerns are entirely consistent with the crucial objective of protecting the security of our southern border and making sure that the Department of Defense can provide support to U.S. Customs and Border Protection to ensure the success of that mission, as the Department has already been doing for more than half a decade.

I would ask my colleagues if they are aware of the concerns of the Department of Defense with respect to section 1103 and of the Department’s suggestions to address those concerns. I would also ask if they would be willing, at the appropriate time, to consider the Department’s concerns and its suggestions for potential adjustments to the legislation that would address the Department’s concerns.

Mr. SCHUMER. Madam President, I would tell my friend from Michigan, the chairman of the Armed Services Committee, that I am aware that the Department of Defense has some concerns with respect to section 1103 and also that it has some suggestions for our consideration to address those concerns. I would also tell my friend from Michigan that I would be willing, at the appropriate time, to consider such suggestions in order to address the Department’s concerns.

Mr. MCCAIN. Madam President, I join my friend from New York in stating that I am aware that the Department of Defense has a number of concerns with section 1103 and some ideas on how to address those concerns while allowing us to take the necessary steps to ensure the security of our southern border. I would also tell my friend from Michigan, with whom I have served for many years on the Armed Services Committee, that I would be willing, at the appropriate point, to consider ideas to address the Defense Department’s concerns.

The PRESIDING OFFICER. The majority leader.

Mr. LEVIN. Madam President, I now ask unanimous consent that at 4 p.m. today all postcloture time be considered expired; the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill, as amended; that the time until 4 p.m. be equally divided between the Chair and ranking member or their designees, with the final 20 minutes equally divided, with the majority leader—that’s me—controlling the final 10 minutes; further, the following Senators have 8 minutes each from this time: FLAKE, BENNET, RUBIO, MENENDEZ, GRAHAM, DURBIN, MCCAIN, and SCHUMER; and Senator LANDRIEU has 5 minutes from the majority’s time; and on all quorum calls, if there is a quorum call, time will be equally divided between the two parties.

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

The Senator from Louisiana.

Mr. REID. Madam President, I now call the roll.
Productive way forward. That is why I have spent some time on the floor talking about a step toward a more productive way.

A few of us on both sides of this debate—some of us are voting against the bill, are voting for the bill—have been working on a small package of amendments that have bipartisan support, no substantive objection, and we are trying to get a short, small list cleared by both sides. We have been working on this all week.

I am asking all my colleagues to say yes. But will have to have 100 of us say yes. But as we call it here, hot-lined, and we have amos consent. It will have to be done, through the Senate clerk to see if the list can be cleared.

GRASSLEY and Senator LEAHY. They are Democratic and Republican sponsors from Louisiana.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FLAKE. Madam President, I ask unanimous consent to remove my amendments.

The PRESIDENT. I am asking all of my colleagues—it is going to take 100 of us. If one person says no, this will be stopped. I hope we can end on a more positive note. A lot of hard work has gone into this bill. I know there are terrible disappointments. I am not one of those who are disappointed. I am happy with what has happened, what it is going to be at 4 p.m. It is not going to change a thing. It will solve some problems several people have on subjects that are important to the constituents we represent at home.

Again, I am taking my amendments off the list.

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. FLAKE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT. Without objection, it is so ordered. Mr. HATCH, for the President, I rise today as the Senate is on the verge of passing immigration reform by what the final vote? That is what it is going to be at 4 p.m. It is not going to change a thing. It will solve some problems several people have on subjects that are important to the constituents we represent at home.

Again, I am taking my amendments off the list.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. The list of amendments that will be circulated has Democratic and Republican sponsors that have been cleared by Senator GRASSLEY and Senator LEAHY. They will work with their individual Members to see if the list can be cleared.

There will be no votes, as is the unanimous consent. It will have to be done, as we call it here, hot-lined, and we will have to have 100 of us say yes. But I am asking my colleagues to do that. We are asking them to say yes, to take a step in the right direction. I am not accusing anyone of anything. I am not blaming the Democrats or the Republicans.

I am just saying I think we should take a small step toward trying to get the Senate back on track. I don’t know what is going to happen after the immigration bill, if we are going to enact any changes. I have tried not to make any inflammatory statements about that one way or the other.

This is a sincere effort on my part— and Senator COATS has been helpful as well—to put forward a small package. I am not asking for a debate or a rollcall vote. It would have to be done by consent in a small package, and I am removing my amendments.

I thank the Senate. I am asking all of my colleagues to say yes.

Despite claims that the border is now more secure than ever, Arizona ranchers know quite the opposite. Beyond the border area, Arizona remains a State struggling under the weight of a sizeable undocumented population.

As I said before, this situation helps no one. It doesn’t help those who are undocumented and living in the shadows, it doesn’t help State and local governments that are bearing the burden, and it doesn’t help employers who are struggling to find a legal workforce.

It is against this backdrop that the Senate moves toward approving legislation that takes dramatic steps in addressing border security, provides a tough but fair solution for those who are here illegally, and spurs economic growth by modernizing our legal immigration system.

Obviously, this legislation is not without its critics. Opponents will point to the legislative process and say it was flawed. I must admit that while no process for considering legislation is perfect, this bill was made available early. It was also thoroughly vetted under regular order in the committee. While I share the frustration that there haven’t been more amendments considered on the Senate floor, this body has now spent 3 weeks debating the bill on the floor.

We have heard that the bill affords too much discretion to the Secretary of the Department of Homeland Security and does little for border security. The Hoeven-Corker amendment, adopted by a wide bipartisan majority, removes much of that discretion from the Secretary when it comes to border strategy by designating a minimum level of technologies to be deployed per sector.

In addition, the Hoeven-Corker amendment dramatically increases the resources provided to secure the border by requiring double the number of Border Patrol agents and 700 miles of fence. These have to be completed before anyone adjusts status.

We have heard the bill weakens existing law. To the contrary, this legislation takes credible steps toward implementing an entry-exit system to tell us who is in and who has not left the country. It makes progress toward achieving the goal of a biometric approach to this system.

At this point it is difficult to take seriously criticism that the bill does not go far enough on border security.

I should point out that the very day the Hoeven-Corker amendment was filed, a CNN headline read “Four Bodies Found in Arizona Desert.” Four more deceased immigrants had been located near Gila Bend.

This is an issue that plays for keeps. It is in everyone’s interest that we gain control of the border.

The unprecedented level of resources this bill provides, coupled with the technology and visitor verification system and guest worker plans to allow for future flows, is much needed and it takes the right steps to get us there.
As in previous immigration debates, there are those who claim this legislation is amnesty. To the contrary, this legislation provides for a provisional status for those who are already here as a means to bringing undocumented immigrants out of the shadows. It requires them to meet eligibility criteria, pass a background check, make good on any tax liability, and pay a fee and a fine. Before anyone can apply for a green card, they have to pay an additional fee and fine, pass another background check, continue paying taxes, learn English and civics, and prove that they have been employed.

Even then, there is no less than a 10-year waiting period before anyone can begin to apply, and that can only happen if the border agents have been hired, the border strategy has been employed, the mandatory E-Verify system is being used by all employers, 700 miles of fence are on the border, and an entry-exit system is implemented for all ports of entry.

Much of the focus of the legislation has been on the border security and legalization provisions, but just as important are the critical steps included to modernize our legal immigration system.

The U.S. economy has to stay on the cutting edge of innovation and global competitiveness. When the best and brightest come here to study, we need to allow them to stay.

I am pleased to say the provisions I have previously pushed for as part of the STAPLE Act were included in this legislation. Those with advanced degrees in the so-called STEM fields will be exempt from caps on green card applications.

This bill moves our legal immigration further toward a merit-based approach, increases the cap on H-1B visas significantly, provides an avenue for foreign-born entrepreneurs, and creates better opportunities for both agribusiness and nonagricultural temporary workers.

When asked about the impact of these changes, the Arizona Chamber of Commerce and Industry president, without missing a beat, said: 'These will provide rocket fuel to the economy.'

The Congressional Budget Office, in different words, said much the same thing. Over the period of the next 10 years, it said, spending would increase by 3.3 percent as a result of this legislation and by 5.4 percent by 2033.

Let me say in the few minutes I have remaining that for me, coming from rural Arizona, there is a personal background for immigration reform. Much of my youth was spent on a 200-acre alfalfa field north of Snowflake, AZ, where I grew up. Along with my father and six brothers, I planted hay, cut hay, hauled hay, and moved sprinkler pipes—miles of sprinkler pipes. I even lost my right index finger on that alfalfa field. The chores we performed changed with the season, but there was one constant: We worked alongside undocumented migrant labor, largely from Mexico, who worked harder than we did under conditions much more difficult than we endured.

Since that time, I have harbored a feeling of admiration and respect for those who have come to risk life and limb and sacrifice so much to provide a better life for themselves and their families.

As I explained earlier in my remarks, there are many who are here in an undocumented status who do not fit the sketch I have just described. It is our lot here in Congress to fashion an agreement that deals with the myriad motives, reasons, intentions, and purposes that have brought people here illegally.

Along those lines, let me close by saying a few words about the path to citizenship included as part of this legislation. I recognize that there are those who are here who hold the position that has entered this country illegally should ever be able to become a U.S. citizen. My own feeling is citizenship should be treasured and valued—and possible—for those who qualify and who are willing to comply with the requirements set forth in this legislation. If someone is going to be in this country for 20 or 30 or 40 or 50 years, I want them to assimilate. I want them to have the rights and, more importantly, the responsibilities that come with citizenship. Such assimilation is what sets our country apart. It is quintessentially American. It is the right policy.

I will be proud to cast my vote in favor of this legislation, and it is my hope it will become law.

I yield the floor.

The PRESIDING OFFICER (Mr. HEINRICH). The Senator from Colorado, Mr. BENNET. Mr. President, I wish to start by thanking the able Senator from Arizona for his statement, for his leadership, and for his incredible work on this bill. I wish to thank all of my colleagues who have been in this so-called Gang of 8, both Democrats and Republicans, including CHUCK SCHUMER and DICK DURBIN and BOB MENENDEZ on the Democratic side. But today I especially want to thank the Republican Members of this group, led by JOHN MCCAIN, and including LINDSEY GRAHAM, JEFF FLAKE, and MARCO RUBIO, for their extraordinary leadership.

For reasons everybody in this Chamber understands, their willingness to be at the table and to stay at the table was an act of leadership unlike any other I have seen in this Chamber in the 4 years I have served here. We would not have been here today voting to fix our broken immigration system were it not for them. So on behalf of the people I represent in Colorado I thank them.

For me this all started in Colorado, because everywhere I went I heard people talk about how big immigration was affecting them. I would hear the peach growers in Palisades say one thing and the cattle ranchers on the eastern plains say something else. The immigrant rights community, many of whom represented children in my old school district, our high-tech community, our ski resorts—everybody was feeling the pain of a broken immigration system that Washington had actually given up hope that Washington would fix it.

They didn't know each other cared about this issue, so we pulled them together over a 2-year period. We traveled thousands of miles in the State to create something called the Colorado Compact, a statement of six principles about what Colorado expected immigration reform to look like.

Now that we have come to the end of this process—we have come to the end of the Gang of 8, finishing the Judiciary Committee proceedings, the work on the floor—I can say this bill is entirely consistent. It is not identical, but it is entirely consistent with those principles.

The first of those principles of the Colorado Compact is immigration is a Federal responsibility. This is not something that should be done State by State by State in this country. The Founders themselves recognized this because they put the regulation of immigration in the Constitution and charged the U.S. Congress as our obligation to deal with it. That was the first principle.

The second principle was ensuring our national security. This bill meets that test as well. It is the strongest border security bill ever passed in the Senate. It doubles the number of Border Patrol agents on the southern border. We build 700 miles of fencing. It adds new technologies. We spend nearly $50 billion on border security.

I believe we should have a secure border. In Washington this becomes a tradeoff. I believe we should have a secure border, and we should have a pathway to citizenship, and this bill accomplishes both.

The people in Colorado who wrote this Colorado Compact called for more effective enforcement of our immigration law, and this bill will give them that. It includes a fully operational, biographic, and biometric entry-exit system, more effective measures to detect fraud and abuse of our visa system, more effective measures to ensure our national security. This is all in this bill. That has not been in prior efforts that either passed or failed in the Congress, but it is in this bill, and it is a critical part to making sure we don't end up here again.

The Colorado Compact said we should have a bill that strengthens our economy. This bill meets that test with a visa system much better aligned for our 21st century economy. We have high-tech and INVEST visas, visas for agriculture that will give our farmers and ranchers a fighting chance to hold on to their
Mr. DURBIN. Well, I am going to suggest the absence of a quorum and ask that the time in the quorum call be charged against the opponents’ time, up to 23 minutes, so we can have some equity in the amount of time on the floor. It is my understanding—unless Senator BLUNT is coming to the floor to speak?

Mr. BLUNT. I am.

Mr. DURBIN. I withdraw my request. The PRESIDING OFFICER. The request is withdrawn.

The Senator from Missouri. Mr. BLUNT. Mr. President, I thank you for the time.

I want to talk about the hard work my colleagues have put in on this bill. It looks as though it is going to get a number of votes today. It will not be getting mine.

I think it is important, as we look at these issues, to understand that once a bill actually gets to the President’s desk and gets signed into law, we are probably not going to visit this again for a long time.

I think it does not put border security firmly in place. That is what I think we have more and more grown to think of as the other border, which is the hiring desk. The nonpartisan Congressional Budget Office said the underlying Senate bill would only cut illegal immigration by 25 percent. It does not seem to me that is nearly good enough.

I think the estimate was that if this bill did not pass, 10 million people would come into the country in the next 10 years. If it does pass, 7.5 million people would come into the country in the next 10 years illegally. Some of them will come across the border. A lot of them come here now legally and then they just stay. I do not see anything in this bill that does what we could be doing there.

I voted against proceeding to the amendment this week, the Hoeven-Corker amendment, because I did not think it really focused—as the Cornyn amendment did—to any further approval. It is a new and innovative kind of deal with the other side, but I did not think it was going to work.

In my view, these challenges need to be met. What do we do about the workforce needs of the country? What do we do about people who came here illegally or came here legally and stayed illegally?

But it is important to understand that as long as it has taken to even get to this point, once a bill passes, we are probably not going to go back and say: Gee, I wish we had done this or I wish we had done that.

In addition, under the bill, the only requirement before legalization can begin is for the Secretary of the Department of Homeland Security to simply submit a border security plan to the Congress. There are lots of plans and a lot of them are talked about in this building. Some of them work; some of them do not work. But this does not require any further approval or verification of the plan.

The amendment I supported that Senator Corker was the principal sponsor on said you would have to meet some metrics, you would have to have some measures you know you could prove and would be willing to certify.

Everybody seems willing to admit that 100-percent awareness of what goes on on the border is possible. So if 100-percent awareness is possible, why isn’t it possible—if you know 100 percent of what is going on and can watch the whole border—why isn’t it possible to be able to certify a certain number of people are being stopped every year and that the border is not totally and completely and absolutely secure but meets a level of operational control the American people have a right to expect?

The $46.3 billion for border security is mandatory funding, but the amendment only requires $8.3 billion of that $46 billion to come from fees, leaving taxpayers on the hook for another $38 billion, again, without the other half of the plan—what are we doing in this country legally for a short period of time and then stay—being dealt with. If we do not deal with that, we have not dealt with the problem.

Mr. President, 20,000 additional border agents and $1.5 billion for additional border technology is not a strategic plan. It seems to me it is throwing a lot of money at a plan and hoping it works.

I read lots of people’s comments on this who say: Well, we have overdone what needed to be done here, but we have underestimated the things you ultimately are going to have to do to fix this problem.

This measure also provides $1.5 billion over the next 2 years to provide jobs for Americans between the ages of 16 and 24. While jobs for young workers are a priority, it has nothing to do with immigration reform. It is something to do with one of the additional votes. If what I read is true, this is something someone insisted be in this bill. I think we have to understand we would do a lot more to put young Americans to work if we had common-sense regulatory policies and common-sense energy policies.

Several editorial boards criticized amendments I cosponsored as poison pills because they considered them too costly to enforce what we were trying to do. One of the amendments I sponsored said we would have 5,000 extra people at the border, and editorial board after editorial board said: Oh, that is too expensive. It is a poison pill that will kill the bill. Those same people are now supportive of the bill that adds 20,000 people working at the border.

During the debate I cosponsored other amendments I sought that were defeated. These amendments were in
addition to Senator CORNYN’s amendment, the RESULTS amendment, requiring DHS to have situational awareness and control of the border.

Senator LEE had an amendment requiring congressional approval of the border plan and a requirement of DHS to have situational awareness and control of the border. What would be wrong with that: congressional approval, so every year Congress continues to be engaged with the funds it takes to do what needs to be done as we plan it takes?

Senator GRASSLEY had an amendment requiring the border would have to be “effectively” secured for 6 months before the Department of Homeland Security Secretary could grant the provisional status. Others have pointed out, and I agree, once you begin to grant that provisional status, I do not see any realistic way a Congress ever goes back and says: We know what needs to be done, as well as the plan it takes?

Congress continues to be engaged with the Department of Homeland Security. What we are trying to do is to be fair and give each side a chance to speak on the bill, one side or the other. Senator BLUNT has been here. I would welcome any Senator in opposition. We have used—I think the measure was 25 minutes.

The PRESIDING OFFICER. Twenty-three minutes.

Mr. DURBIN. And your side has used 9. So I wish to offer the opportunity for the Senator to speak in opposition.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I thank the Senator for his courtesy. I think there is an important point that needs to be made. What is needed is a strategy on our part not to speak. That is not true. It is that there is a Republican meeting going on right now. I went to that meeting and said to the people in the meeting they ought to be here speaking and they had an opportunity to do it. And, for the group, I have objected for that reason.

The PRESIDING OFFICER. I yield the floor.

The PRESIDING OFFICER. The time spent in quorum calls is equally divided between the two sides.

Mr. DURBIN. 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. MENENDEZ. 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. MENENDEZ. Mr. President, I come to the floor at the end of a long but fruitful bipartisan process. I come here thinking what this bill will mean for families. I come here thinking of my family, of my mother, who came from Cuba, who worked hard and made it possible for me to stand here today as one of 100 Senators on the verge of passing a historic piece of legislation that she would have wanted me to vote for.

This is a bipartisan compromise that represents a long journey for us. I have been fighting for immigration reform for 20 years between my time in the House and the Senate and have been blazing a path for the long history of immigrants in America, for the millions who have been here for years without status, but the millions more who have been waiting in line to be reunified with their families lawfully.

When the moment comes to cast that vote, I will be casting it in memory of my mother and for every immigrant like her who came to this country in the last century to give their families a chance to contribute to America’s exceptionalism and for all of those who will have a chance to contribute to America’s exceptionalism in this century.

It will be a vote for the long history of immigrants in America, for the millions of immigrant families from German, French, Italian, Scandinavian, Jewish, Greek, Polish, Portuguese, and many others whose blood, sweat, and tears ushered in America’s industrial age; a vote for the immigrants of the “greatest generation” who brought this Nation through the Depression, fought a World War, and ended the Cold War. It will be a vote for America’s new, young, skilled, educated DREAMers and entrepreneurs who will now have a chance to become citizens and help make this Nation into a brighter, more prosperous, more productive future.

It will be a vote in memory of a long list of immigrants and the children of immigrants who made this Nation great: Marine Cpl Jose Antonio Gutierrez, not even a citizen of the United States when he became the first casualty of the Iraq war; Thomas Edison, from my home State of New Jersey, the Wizard of Menlo Park, who has made New Jersey the home of invention in America—and there will be an immigrant who carries on that legacy who will make the next great discovery—Jonas Salk, whose parents came here and gave him the education he needed to go on and discover the vaccine for polio and save millions of lives. There will be a DREAMer who will be the next Jonas Salk. Colin Powell, admired on both sides of the aisle, his was an immigrant family. Be assured, there will be another great military leader and statesman who will be the son or daughter of parents who will become citizens under this legislation.

Madeleine Albright is an immigrant who became a citizen and went on to become one of the most respected and admired Secretaries of State. The list goes on: Albert Einstein, Henry Kissinger, Joseph Pulitzer—all immigrants who contributed to America’s exceptionalism. This legislation is for all those immigrants and immigrant families who helped make America better.

This is the culmination of a long journey for me. I have been fighting for immigration reform for 20 years between my time in the House and the Senate and have been blazing a path for the long history of immigrants in America, for the millions who have been here for years without status, but the millions more who have been waiting in line to be reunified with their families lawfully.
to acceptance and opportunity. As the saying goes: The hardest steel must go through the hottest fire.

What we are about to do today has been a generation-long drive for justice and tolerance. It has been and remains the essence of our democracy. I believe when this legislation finally becomes law, it will make us stronger as a nation, just as the Civil Rights Act strengthened this country. We are on the verge of historic change.

I also have been a part of the Gang of 8 that hammered out a strong bipartisan effort. Now, I say to my friends in the other body: Do the right thing for America and for your party. Find common ground. Lean away from the extremes. Opt for reason and govern with us. The time has come to act in the interests of all Americans. I hope that message will be heard loudly and clearly in the House.

In my view the leadership in the other body has a chance to be American heroes, a chance to bring both sides together in an alliance that will ensure passage of this bill. I believe a vast majority of Americans who want immigration reform to pass will thank them for doing what is right.

I believe we have the political will and courage to unite the Nation and send this bill to the President’s desk, a bill that will increase the gross domestic product, reduce the deficit, promote prosperity, and create jobs. This chart shows the cumulative economic gains of the legislation over 10 years after passage. Look at the numbers.

Fixing the broken immigration system would increase America’s gross domestic product by over $800 billion over the first 10 years, it will increase wages of all Americans by $470 billion over 10 years, and it will increase jobs by 121,000 per year for 10 years. That is 1.2 million jobs. Immigrants will start small businesses and create jobs for American workers. It is time to harness that economic power.

The next chart shows that the CBO report also tells us it will reduce the deficit by $197 billion over the next decade and by an additional $700 billion more between 2024 and 2033 through changes in direct spending and revenues. We are talking about almost a trillion in deficit spending that can be lifted off the backs of the next generation of Americans.

What other single piece of legislation increases GDP growth, increases wages for all Americans, increases jobs and lowers the deficit? What we realize now has been confirmed by the numbers; that is, giving 11 million people a clear path to citizenship is, in effect, an economic growth strategy and exactly the right thing to do.

It will be a long road for those who have earned the right to become citizens. Citizenship will not be easy. It will be a rough road for those who follow the pathway we lay out will have to have played by the rules. They will have to pass background checks, pay a fine, pay their taxes. But, if they do, there will be no obstacle they cannot overcome to the day when they raise their right hand and take their naturalization oath.

Too many families have waited too long for that day. Too many have waited too long to say those words that will change their lives forever.

They changed my mother’s life and, in turn, gave me the chance to stand here today and vote for a pathway to citizenship that can change the lives of millions of others.

Today is a victory, not for me or the Gang of 8. It is not a victory for the Senate or for any one community. By passing comprehensive immigration reform, we will have taken the next historic step on America’s long journey to exceptionalism. I am proud to have been part of the process that will continue that journey.

In 2007, when we failed at our last attempt at immigration reform, I quoted the Nobel prize-winning poet, the Late Sir John Betjeman, who wrote that the immolation of our immigration system has become a vast majority of Americans who want citizenship that can change the lives of millions of others.

Here today and vote for a pathway to citizenship that can change the lives of millions of others. The Gang of 8 that hammered out a strong bipartisan effort. Now, I say to my friends in the other body: Do the right thing for America and for your party. Find common ground. Lean away from the extremes. Opt for reason and govern with us. The time has come to act in the interests of all Americans. I hope that message will be heard loudly and clearly in the House.

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In 2007, when we failed at our last attempt at immigration reform, I quoted the Nobel prize-winning poet, the Late Sir John Betjeman, who wrote that the immolation of our immigration system has become a vast majority of Americans who want citizenship that can change the lives of millions of others.
The PRESIDING OFFICER (Ms. Hstell). Without objection, it is so ordered.

Mr. RUBIO. Madam President, my father had a rough childhood. His mom died just 4 days shy of his ninth birthday. The small catering business his parents ran together had collapsed, so as a young child he was forced to leave school and go to work, and he would work virtually every day for the rest of his life. Mother grew up just as hard. Her father was disabled by polio as a child, and he struggled to provide for his seven daughters.

My parents met at a small store where my mother was a cashier and my father a security guard. He actually lived and slept in the storage room of that store. Like all young couples, they had dreams. My mother wanted to be an actress, and my father tried hard to get ahead. In fact, after work he would take correspondence courses to become a TV and radio repairman, but it was hard because he barely knew how to read.

They did everything they could to make it better but living in an increasingly unstable country, with limited education and no connections, they just couldn’t. So they saved as much as they could, and on May 27, 1956, they boarded a plane to Miami. They came to America in search of a better life.

Like most recent arrivals, life in America wasn’t easy either. My father had someone actually phonetically write on a small piece of paper the words he could say. He memorized those words. Those were literally the first words he learned to speak in English. He took day jobs wherever he could find them.

They both went to work at a factory, building aluminum chairs. My dad started working as a bar boy on Miami Beach, eventually becoming a bartender. He saved money and tried to open some businesses. When that didn’t work, he tried Las Vegas, but that also didn’t work. So he found himself back on Miami Beach behind a bar. The truth is that they were discouraged and homesick for Cuba too. In fact, in the early days of Castro’s rule, before he came out as a Marxist, they even entertained going back permanently. But, of course, communism took root in Havana, and that became impossible too.

I am sure that on their worst days they wondered if it would ever get better. Then the miracle we know as America began to change their lives. By 1967 they had saved enough money to buy a house within walking distance of the Orange Bowl, where on Sundays they would watch all the games and keep two young people park on their lawn. My older sister was in ballet; my older brother, the star quarterback at Miami High. But it wasn’t just their lives that changed, it was also their hearts. They still worked hard but at all the customs they brought with them from Cuba, but with each passing year this country became their own.

My mother recalls how on that terrible November day in 1963 she wept at the news that her President had been slain. She remembers that magical night in 1969 when an American walked on the Moon and she realized that now nothing was impossible, because you can’t be afraid of people coming in here from other places. Inspired by our Judeo-Christian principles, we Americans have seen the stranger and invited him in, and our Nation has been blessed for it in ways that remind us of these ancient words:

*Goddivided the sea and led them through and made the waters stand up like a wall. By day he led them with a cloud; by night, with a light of fire. He split the rocks in the desert. He gave them water to drink. From the deep, he made streams flow out from the rock and made waters run down like rivers. He commanded the clouds above and opened them. Then, and the rain came, and down manna for their food and gave them bread from heaven.***

Our history is filled with dramatic evidence that God’s hand is upon our land. Who among us would dispute that we Americans are a blessed people? In the harbor of our most famous city, there is a statue of a woman holding a lamp, and at the base of that statue is a poem that reads:

*Keep ancient lands, your storied pomp! . . . Keep me among your budded masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me. I lift my lamp beside the golden door!***

For over 200 years now they have come in search of liberty and freedom for sure but often just in search of a job to feed their kids and a chance at a better life. From Ireland and Poland, from Germany and France, from Mexico and Cuba, they have come.

For the quorum call be rescinded. The clerk will call the roll.

Mr. RUBIO. Madam President, I offer the following remarks from the heart of my good friend MARCO RUHIO. He is a great addition to the Senate. And I would say the heart of America is good. The heart of this country is good. For 30 years they have been pleading with us to keep a generous immigration policy afoot in America, but at the same time they have been pleading with us to end the illegality that has continued for years now. The people have pleaded with us to do something about it, and year after year our Acting President has refused, the President has refused. That is why we now have 11 million people in the country illegally.

I think the heart of America is good and people are willing to deal compassionately and not try to deport 11 million people. They want to do the right thing about this, but by a 4-to-1 margin they have said they want to see this Congress do what Members of Congress have repeatedly promised and never delivered—create a new system we can be proud of, a system that serves the national interests.

As I explained this morning, rather than working with law enforcement groups and prosecutors and considering the needs of everyday citizens, the sponsors of this bill have spent months in negotiation with special interests and lobbyists to produce a bill that will not work. That is the problem we have before us today. This will create even more lawlessness in our country. We have an immigration policy afoot in America even more.

Mr. DURBIN. Madam President, I suggest the absence of a quorum.

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

The vote was taken, the result was announced, and the bill was passed.
This is a joint statement issued today by the councils representing Immigration and Customs Enforcement officers—the ICE officers—and the U.S. Citizenship and Immigration Service officers, a joint statement of two associations representing these tens of thousands of people. I didn’t think we would listen to what they are saying? Please listen, colleagues.

ICE officers and USCIS adjudication officers have pleaded with lawmakers not to adopt the Schumer-Rubio-Corker-Hoeven proposal will make Americans less safe, and it will ensure more illegal immigration in the future—not visa overstays. It provides cover for thousands of dangerous criminals while making it more difficult for our officers to identify public safety and national security threats. The legislation was guided from the beginning by anti-enforcement special interests and, should it become law, it will have the desired effect of these groups: blocking immigration enforcement.

This is an anti-public safety bill and an anti-law enforcement bill. We urge all lawmakers to oppose the final cloture vote on Thursday and the vote on the bill. We call on all Americans to pick up the phone and call their members of Congress.

So who do we trust on this question of whether we have a bill that will work? Our good political Senators who work hard but haven't been out on the frontlines doing the work or the people we pay who try to do the work every day, putting their lives at risk?

There is something else I would like to touch on. I think it is one of the least of the least of the least of the conversation. I am sure we will have others talk in more detail about enforcement failures of the legislation, but in many ways this could be the most important. I know our friends in the media certainly haven’t given a lot of coverage to it, but I hope we will think about it more; that is, the future flow or the legal immigration part of the bill.

The Congressional Budget Office tells us that the bill’s large increase in most legal immigrant workers will push down wages and increase unemployment. That needs to be talked about. It must be fully understood. Hundreds of people are hurting today.

There was an article recently in the New York Times—I think 700 people camped out for 5 days to get a few jobs as elevator repairmen. They waited in the rain, they camped out, they waited in line hoping to get one of those jobs. There was an article involving Philadelphia individuals with prior convictions and wanted work. They set up an opportunity for them to apply to find a job. They expected 1,000, and 2,000 showed up. They interviewed a number of them, and the stories they gave are heartbreaking.

Don’t we need to consider the impact this policy could have on working Americans? Is it a sensitive topic but a crucial one.

Here is what David Cameron, the British Prime Minister, said recently.

Mr. Cameron goes on to say: It is our failure in the past to reform welfare and training that meant that we left too many of our young people in a system where hundreds of thousands of young people, they didn’t have proper incentives to work, and instead we saw large numbers of people coming from overseas to fill vacancies in our economy. Put simply, our job is to educate and train our youth, not to rely on immigration to fill the skill gaps.

Does that resonate with any of our people today? Have we thought through this as to how we should handle these matters?

Let’s look at our own situation right here in America. Twenty-one million Americans are unable to find full-time work. One in three without a high school diploma is unemployed. Forty-seven million Americans are on food stamps. Labor force participation is the lowest since the 1970s.

The percentage of Americans actually working is lower and has been continually falling since the 1970s. It goes back to the year women were just beginning to enter the workforce. One in three youth in our Nation’s Capital is living in poverty. It appears we are in an era of a new normal—economists have been talking about this—a new normal where we see slower growth in developed economies than we normally would see. There is more robotics, and businesses are looking to contain the growth of employment. Low job creation has been the result.

Madam President, I ask unanimous consent that I be notified after 20 minutes.

Mr. SESSIONS. Our own Congressional Budget Office has done a 10-year economic projection, as they do every year. They did this in January, unconnected to immigration. They found in the second 5 years of our 10-year window, 2018 to 2023, we would only create 75,000 jobs.

Some have said we are going to bring in workers, and that is going to create jobs. We will talk about what economists really say about that. But what does this legislation do? I think this legislation has not given thought to the plight of these unemployable Americans.

Colleagues, the legislation that is before us today has four times more guest workers. These are people who come only to work. They are not just seasonal workers, they come for years at a time with their families, and they sometimes specifically to take a job—four times more than in the 2007 bill that failed and many objected to on the grounds it would hurt workers.

It also triples the grants of permanent status awarded to legal immigrants over the next decade relative to current law. That was the result of the legalization process. Experts who have looked at this and other factors have said to the same conclusion. There would be at least 30 million people who would be given legal status over the next decade, whereas normally we would give 10 million people legal status. Yet to this day the sponsors of the legislation refuse to say how many would come into the country.

What we do know is that the plan is not a merit-based plan as promised, but it is mostly lower skilled, meaning it will hurt our poor and working-class citizens the most. We have data that shows that. This will be a hammer blow for working-class Americans.

The Civil Rights Commission had hearings, and members wrote us. They said it is going to devastate poor workers. They said, We don’t have a shortage of lower-skilled workers. We have a glut of lower-skilled workers.

That is a direct quote from their letter. So let’s compare our current situation when the legislation was introduced in 2007. Today, 5 million more Americans are unemployed than in 2007; 20 million more Americans are on food stamps; and unemployment among young people is now higher than in 2007. Meanwhile, median household income is 8.9 percent lower than in 1999. That is huge.

Professor Borjas at Harvard, himself an immigrant who studies immigration and economics, has said a large part of that decline is due to the large immigration flow that comes into our country. This would increase it dramatically. We want to have immigration. We are not going to stop immigration. We are going to maintain a govern immigration flow. But the people need to know this bill increases it dramatically.

CBO did a report on the legislation. This is what they found: Unequivocally, the legal immigration surge in this bill will reduce average wages for a decade. There is a chart in CBO’s report. I had it on the Senate floor earlier. Wages will remain lower for many years after that than if the bill had never passed.

What about unemployment, the number of people out of work? According to CBO, it will increase, and per capita, GDP will be lower for the next quarter of a century.

Yes, you are going to have an increase in GDP—and our colleagues are quick to say that—because of the large number of new group of people. But that increase per person in America doesn’t occur. It is an increase per capita. These are extremely conservative estimates. Dr. Borjas in his report suggests the situation will be worse than this.
To whom do we owe our allegiance? To those groups who want more people in the high-tech world, agriculture world, meatpacking, or other businesses, or to the American citizens, who work hard, pay their taxes, fight our wars, and obey our laws? Who is speaking up for their legitimate interests?

So the time is long past, as Prime Minister Cameron has said, for a national discussion over illegal immigration policies. We all believe in it. No one proposes immigration is a deep part of our tradition as a nation. But a nation has not only a right but a duty to establish a responsible flow of workers that considers the tough time data indicates, objectively speaking, that this will be a detriment to working Americans. But a nation has not only a right but a duty to establish a responsible flow of workers that considers the tough time data indicates, objectively speaking, that this will be a detriment to working Americans.

The legislation before us is a dramatic step. I urge my colleagues to reject the bill and to work on a positive reform plan that serves the national interests of all Americans-immigrant and native born.

Sadly, this legislation advances the interests of those who write it—many of them with very special interests—at the expense of the general public.

The vote we are about to have is for final passage. The promises of an open and fair process have been as hollow as the promises that this bill would be the toughest ever and will end the lawlessness in the future forever. It just will not happen. Our law officers have told us this.

This legislation is amnesty first. The legislation will not work. Let's continue to work through all these problems together. I do believe that this—our bill's sponsors are clearly the law enforcement officers as I read the passionate letters from the American people for a real focus, as Prime Minister Cameron has said, should be to work hard to train our people, our unemployed, our young people for jobs that pay a decent wage, have a health care and a retirement plan. This legislation will not end the lawlessness as our professional officers say it will not be. It will not accomplish what will be asked of them. They say it will lead to lawlessness, and they will be unable to identify dangerous people who should not be in the country.

The legislation will not work. Let's work so hard to do this. He said one of the problems with the bill:

... is a failure to enforce the nation's immigration laws on the interior of the United States. It is not a border. It cannot and will not end as a result of increased border security. It must be resolved through increased interior enforcement.

40% of all illegal immigrants currently in the United States did not illegally cross the border, but instead entered legally with a visa and didn't leave. 40,000 border patrol agents provided in your legislation will never come into contact with these individuals...

Do you hear that, colleagues? These Border Patrol agents are never coming in contact with the people who are in the interior who came on visa and chose not to return. He goes on to say: Systems like E-Verify and biometric Entry/Exit—still missing from your bill—may identify millions of illegal immigrants and status violators, but ICE officers will not exist to locate and apprehend them rendering the systems useless. The majority of foreign nationals identified by these systems will remain in the United States...

500,000 ICE fugitives are currently at large in the United States. ICE estimates 2 million criminal aliens at large in the United States. 900,000 criminal aliens are arrested by local police each year.

They go on to note there are only 5,000 ICE officers in America. This administration sued State and local governments that try to help the ICE officers get their job done.

Then the joint statement today from the ICE and USCIS Officers Association says this:

ICE officers and USCIS adjudicators officers have pleaded with lawmakers not to adopt this bill, but to work with us on real, effective reforms for the American people.

This bill, they say, is an:... anti-public safety bill and an anti-law enforcement bill. We urge all lawmakers to oppose the final cloture vote today and to oppose the bill.

This legislation will not end the lawlessness. I wish it were different, but...
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those are the facts. It does not create a merit-based future flow as has been promised, and it leaves us in a very difficult position. I feel like there is no choice for us today. Let’s vote no on the legislation. It is not going to end the efforts. We are going to have to continue with this.

The good news is that the House, at least initially, what I have seen in their work indicates they are giving a far more prudent approach to it. The first bill they produced—I tried to offer it as an amendment, but it did not stand up—has had an effective effort at improving interior law enforcement. That is the kind of thing we need to be doing. Then we can win the confidence of the American people, and we can move past this very difficult time in our history.

I reserve the remainder of the time on this side.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Madam President, if I may, I say thank you to my good friend from Alabama. He is consistent. He has conducted himself incredibly well. He is a man of passion, and I agree with David Cameron and Jeff Sessions. Let’s have a debate about immigration. But I am in the camp of agreeing with David Cameron and Jeff Sessions about a debate about immigration. But I am in the camp of immigration reform. I think it as a significant step toward the Senate approval rating for the Congress. My Senate. We are at 10 or 12 percent in doing something.

Let’s stop talking about it and start doing something. This bill, in my view, is a giant step forward in many ways; No. 1, for the Senate. We are at 10 or 12 percent in approval rating for the Congress. My question is, Who are the 10 or 12 percent and what bill do they like? I am in the body and I don’t disapprove of what we have been doing here. But I see this as a significant step toward the Senate being able to work together in a bipartisan fashion to do something that matters.

Is this bill perfect? No. Is it like Senator Sessions described? No. It is a good beginning to hard problems that can always be made better.

But to the American people, you have to be frustrated by your Congress not being able to do the hard things or sometimes even the simple things. This should give people a little bit of hope that for the first time since 2007, the Senate, in a bipartisan fashion, is about to pass legislation on an important topic that is emotionally tough but needs to be dealt with.

To the critics, I appreciate the debate this time around. It has been so much better, but some of the criticism I am going to address.

Senator Rubio spoke in the most eloquent fashion about his family’s history and about who we are as Americans. But everybody has a story. Marco’s story is an exceptional story. I am the first person in my family to go to college. Neither one of my parents graduated high school. My dad and mom ran a restaurant, a liquor store, and a coffee shop. And I learned and I learned and I learned and I learned and I learned and I learned about politics in the pool room—a great place to learn about people.

But one of the critics of this bill, one of the organizations, said that the average illegal immigrant has a 10th-grade education. All I can tell you is you have a Senator who came from parents who did not have a 10th-grade education.

To those who believe that how long you go to school determines your character, how much money is in the bank determines your worth, they do not understand America. Only in America can you do what Senator Rubio has done. My mother passed away. When I was 21, my mom died; 17 years younger than my dad. We thought he would go first, but life is not so understandable and predictable. She went first and 15 months later he passed. As my sister was 12, an aunt and uncle helped raise my sister. They never made over $30,000 in their life. They worked in textile plants. She has turned out great in spite of having an overbearing brother. But I am in the Senate today. Why Senator Rubio lives in a country where anything is possible. There are a lot of self-made people in America. I am not one of them. If it were not for my family and my friends, I would not be here today.

To those who say that among this illegal immigrant population they are just not well educated, you have no idea how offensive that is to a guy like me. So you can take your criticism and—we will just end it at that.

Eighty million baby boomers are going to retire in the next 40 years. To my good friend from Alabama, who believes we have too much legal immigration, I am taking Strom Thurmond’s place. He got married and started having kids when he was 67. Unless all of us start doing that, we have a problem because in 1955 there were 16 workers for every Social Security retiree; today there are three and in 20 years there is going to be two. Unless all of us start doing that, I don’t see coming—and I am part of that. I am not married and I don’t have any kids. Unless there is a baby boom we don’t see, we better hope we can improve our legal immigration system.

To my good friend from Alabama, I could not disagree with him more. We are going to need a lot more legal immigration than is in this bill. I wish we could do more. Who is going to take care of the baby boomers when we retire? Who is going to replace the workers in our economy who do not have better legal immigration?

What did the CBO say about this bill? If we pass this bill, over the next 20 years we reduce the deficit by $890 billion. How can that be? That means it is good for the economy. How can you reduce the deficit $890 billion if you do not create economic activity?

To the American worker, the biggest threat to you is illegal immigration. Tell me how it is better for America to continue to do nothing and paying people under the table with no regulation. How did that help the American worker to compete against some person who is being paid under the table? This bill stops that. It brings people out of the shadows on our terms, not theirs.

You get to stay here if we decide you can stay. We are regaining our sovereignty that has been lost. How do you get all 11 million illegal immigrants in this country? Your system is broken from top to bottom. Every nation, including America, has the right to control its borders and control who gets a job and this bill does that and I am in the camp of that. What we do is nothing is the worst thing for the American worker.

We are going to stop paying people under the table. We are going to give you access to labor you have today if you can’t find it. Have you ever been to a meatpacking plant? You go and find out who is working in that plant. Mostly Hispanics, people from other parts of the world, not because native-born Americans are lazy; we have higher hopes. There are parts of our economy, like it or not, that are dependent upon immigrant labor and our population is declining and our needs for legal immigration are growing. This bill does that.

As it affects the economy, it will increase our GDP by 3.5 percent over time because it is good for America to have legal immigration. As to the 11 million, you will be brought out of the shadows and you will stay on our terms.

If they committed a felony or multiple misdemeanors, they are not eligible. Here is what we are going to allow: They will go through a criminal background check, pay a fine, get right with the law, and then they will have legal status. Here is what they will get to do: They will get to pay taxes, like the rest of us, and get to know the IRS. Welcome to America.

We are going to create order out of chaos. We are going to get people working and paying in rather than taking out under the table. What we are going to do above all else, ladies and gentlemen, we are going to prove to ourselves that we can work together for the common good.

I have never been more proud to be involved in an issue than I have trying to fix illegal immigration because it is a national security threat, it is an economic threat, and it is a cultural threat.

As to my politics, I am doing great among Hispanics in South Carolina. The bad news is that there are not very many who vote in the Republican primary. I think the good news for me is I have tried working with my colleagues, the Gang of 8, and our staffs to start a process that will pay great dividends.

To Senators Grassley and Leahy, thank you.

To the Democratic and Republican Members, thank you so much. I have never been more proud to be in the Senate than I am today.
To my critics, I respect their criticism. I thank them for a healthy debate.

To the American people, slowly but surely we are beginning to come together in your Senate, the greatest deliberative body in history, to do important work.

And to the 11 million, you will have a second chance. Take advantage of it. Embrace the fact that you are being given second chances.

To the American people, our best days lie ahead, and what makes us special—and I will close with this—is that being French means you are French, being German means you are German. Being an American means nothing about where you come from, your race, religion, background, or ethnic origin. Being an American is an idea that so many people embrace.

Ladies and gentlemen, being an American is something everybody wants to be part of, apparently. Unfortunately, we cannot allow everybody in or it will create a chaotic situation.

I thank Senator DURBIN, who has protected the American worker, and Senator MENENDEZ, and my friend Senator BENNET. The eight of us came together to create a bill, and in the end we did a lot more—we created a bond of friendship and trust and a life experience that none of us will ever forget.

Each of us brought our special pleadings to this negotiation. I argued for the protection of refugees. American workers, access to immigration courts and counsel, reforming the flawed H-1B program, a path to citizenship that was a chance for workers, and I want to tell my colleagues in the Senate that this is a day I have been hoping and waiting for.

Thank you all so very much.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DURBIN. Madam President, first let me thank Senator GRAHAM, Senator MCCAIN, Senator RUBIO, Senator FLAKE, and on our side Senator SCHUMER, Senator MENENDEZ, and my friend Senator BENNET. The eight of us came together to create a bill, and in the end we did a lot more—we created a bond of friendship and trust and a life experience that none of us will ever forget.

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The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, first let me thank Senator GRAHAM, Senator MCCAIN, Senator RUBIO, Senator FLAKE, and on our side Senator SCHUMER, Senator MENENDEZ, and my friend Senator BENNET. The eight of us came together to create a bill, and in the end we did a lot more—we created a bond of friendship and trust and a life experience that none of us will ever forget.

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Mr. DURBIN. Madam President, first let me thank Senator GRAHAM, Senator MCCAIN, Senator RUBIO, Senator FLAKE, and on our side Senator SCHUMER, Senator MENENDEZ, and my friend Senator BENNET. The eight of us came together to create a bill, and in the end we did a lot more—we created a bond of friendship and trust and a life experience that none of us will ever forget.

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The PRESIDING OFFICER. Thank you all so very much.

Mr. MCCAIN. Madam President, I thank Senator DURBIN for his compelling remarks and his deep and abiding concern for many years for the so-called DREAMers. I thank my other six colleagues for their involvement, and I also thank Senator CORKER and Senator HAYES for their efforts on this bill. I thank my colleague Senator FLAKE for his outstanding work. I would like to also mention Senator LINDSEY GRAHAM, who gave his own fateful perspective, and my friend Colorado Senator BENNET and also Senator SCHUMER, who has played such an important and valuable leadership role.

The word “friend” is tossed around too often, perhaps with not as much sincerity as we would like, but these seven individuals are my friends. More importantly, they are friends of America. They are friends who realize that we were sent here by our constituencies to achieve results, and I don’t know at this particular time of a greater issue in which we should be involved.

We have heard a lot of personal stories here today, and I am deeply moved by them. The human story. In fact, there are millions of them. I would like to tell a few of them.

Over the last week the Arizona newspapers have carried reports that bodies were found in the Arizona desert. The Arizona desert today, my friends, is in triple-digit temperatures. On June 21 the Arizona Republic reported:

Four men may have been dead three days before their bodies were found in the Arizona desert by U.S. Border Patrol agents. Two men had Mexican identifications, and the other two didn’t have identification.

On June 24 the Associated Press reported:

Maricopa County Sheriff’s deputies found another dead body in the Arizona desert near Gila Bend. Just days after four bodies were found in the same area, no identification was found on the body and there were no signs of trauma or foul play.

On June 27, today, the Arizona Daily Star reported:

Three decomposing bodies were found by Tucson Sector Border Patrol agents in the desert in two separate incidents over the weekend.

The Yuma Sun reported yesterday:

There have been 12 people rescued from the desert by Yuma Sector agents. Six others were not located and died in the wilderness.
The list goes on and on. Since 2007—the last time we tried to pass this legislation—more than 2,425 immigrants have died trying to cross our southwest border. These are people who wanted to come to this country because they believed in the American dream. That is what they wanted. That is what they risked their lives and, in fact, gave their lives for—and, yes, they did so illegally. They were willing to pay a penalty for crossing our border illegally. Shouldn’t we give them the same chance we have given generation after generation of immigrants who have come to this country? There has been wave after wave of Irish, Italians, Jews, Poles, and now people from all over the world who want to come to this country. Shouldn’t we do that? Isn’t it in us to bring 11 million people out of the shadows who are now being exploited and have none of the protections of citizenship?

Well, how do we address that? This legislation does secure the border, and I can tell everyone, from 30 years of being on the border, this bill secures the border, and anyone who says it doesn’t does not understand our security needs. I have been there, and I have seen the technology. This is technology that was developed in Iraq and Afghanistan, which will give us surveillance. Yes, there is a bill with 20,000 new Border Patrol agents, but the fact is that the technology that is there now will give us the ability for 100 percent situational awareness and the ability to intercept. I guarantee it to my friends because I saw it work. There are 700 miles of total fencing that will be added—700 miles. As we all know, we will also have additional Border Patrol agents.

What is the key to this bill? The key to this bill is not only that we have the fencing on the border and the Border Patrol increased to 40 percent, but the people who are here illegally who came here and overstayed their visas. They didn’t cross the southwest border. What do we do about that? We dry up the magnet, and that is the E-Verify program, which makes sure that every person who wants to come to this country illegally will know they cannot get a job here. Within 5 years we will have an E-Verify system that I am confident—and more importantly, so are the people who are really knowledgeable about this—will be a full-proof system with 95 percent effectiveness.

This legislation will not only give us a secure border, but it will address the key element because people who now want to come here illegally will know they cannot. Employers will know that if they hire someone who is here illegally, they will pay a severe penalty for doing so. We have to dry up the magnet.

So today there are 11 million people who are in violation, and they don’t have the protection of our laws. I would like to mention again the people who are coming across our borders. There is a thing called coyotes. Does anyone know what coyotes are? They are drug cartel people. They are the most evil people on Earth. They take these people in groups, and they bring them across the border. Many times, the reason we find these bodies in the desert is because we are leaving you here. Tucson is right over the hill. Thousands have died in the desert. Do my colleagues know what they do sometimes when they get them all the way up to Phoenix? They keep them in drop houses and then hold them for ransom under the most unspeakable conditions. Do my colleagues know what else they do? They abuse the people they bring up. I won’t go into the details of how they do that. It is an unacceptable situation.

Fifty thousand Mexican citizens have been killed by the drug cartels. Last year, hundreds of migrants were missing or killed in Mexico, more than 20,000 were kidnapped, and many are the regulars who were exploited and who never leave, which is 40 percent of illegal immigration; if they believed we actually had an effective E-Verify or employment verification system that would determine at the workplace whether someone was legally qualified to work, they are legally qualified to work in America—I believe if we had those three legs to the stool in place, the American people would do, once again, the generous thing, the compassionate thing, and give second chances to the 11 million people who are here.

But the problem with this bill—and I say this more out of sadness than anything else—the promises of this bill have simply not been kept. We were told 6 months ago the pathway to citizenship was contingent upon border security and these other enforcement measures taking place. When it wasn’t, I proposed an amendment which would condition the transfer for probationary status to legal permanent residency on a certification that the objectives on operational security of the border had been met. I believed that by doing so, we would realign all of the incentives for the political parties—for Independents, for conservatives, for liberals—everybody would be focused like a laser on how to get this done, how to hit the mark.

I believe, if we had a mechanism in this bill which did not depend on Congress keeping future promises of performance, we could regain the trust and confidence of the American people such that we could get to a successful outcome.

Unfortunately, as the Presiding Officer knows, the proposal I made to do exactly that has been rejected. In fact, the assistant Democratic leader made the point recently in June that permanent legalization has now been delinked from border security.

But I believe the problems of this legislation go well beyond the border. When I offered 5,000 Border Patrol agents, I was told that—even though the Gang of 8 bill offered zero Border
5,000 Border Patrol agents that would be paid for out of the $8.3 billion trust fund created by this bill was too much, but now we have $30 billion more in additional spending being promised. The argument is that somehow this is free money and it doesn’t cost a penny before, but here will actually be a reduction in deficits. The problem is that is double-counting the money. It is the money coming into the Treasury because of people who are now registered, who are paying into Social Security, but it also takes that money to spend on these other programs and does not appreciate or recognize the fact that money is also going to need to be available to pay future benefits for these same people. That is double-counting. That is phony bookkeeping, and we ought to reject it.

The truth is, this bill adds to the budget deficit an additional roughly $14 billion as presently written. At a time when our country is in serious trouble, it strikes me as the wrong thing to do to say we are going to add further to that debt and jeopardize our fiscal health for the country as a whole going forward.

I will close with this. It gives me great pain to say that I think this is an opportunity we have failed to take advantage of. I think we could have done better and we should have done better.

This bill is unworthy of my support or recognition. It will be supported by a number of Members. But my hope is the House of Representatives takes up this issue and we can somehow find our way to a conference committee with the House and produce a bill we can eventually put on the President’s desk. It will not be like this bill. I am confident of that. The House has far different views. But what we do have that we didn’t have in 2007 is I think a true bipartisan consensus that the status quo is unacceptable and we have to do better. Unfortunately, this bill doesn’t keep the promises that were made originally, and for that, I truly regret it.

The PRESIDING OFFICER, the Senator from New York, Mr. SCHUMER, Madam President,

We are now approaching the final hour of this debate on how to fix our broken immigration system—the debate we have been having for 3 weeks here on the Senate floor, for 7 months among the Senators in the Gang of 8. And to remember a quote, I believe it was from the senior Senator from New York after that time, to the effect that that was one of the biggest sources of fraud in the amnesty of 1986. My hope would be we have not repeated that mistake again by keeping that information confidential and away from law enforcement authorities, thereby hindering their efforts to root out fraud and make sure only people who legally qualify for this generosity are able to do so.

The other problem with this bill is it simply is a budget-buster. I was told...
high-tech community: America’s farmers and farm workers; the law enforcement community; the immigrant rights community.

Now, what does this bill do? Simply put, it does three simple things: It will prevent future waves of illegal immigration; it will provide a tremendous boost for the American economy by rationalizing future legal immigration; and it will fairly and conclusively address the status of people currently here.

Let’s look at the actual facts of what the bill does to end illegal immigration.

If the bill passes, anyone who wants to try to cross the border illegally will have to get over an 18-foot steel pedestrian fence and past border agents standing every 1,000 feet apart from Brownsville to San Diego.

Future waves of illegal immigration will be prevented if the bill is passed. That is not a wish, it is not a hope, it is a fact.

People have argued that we should not pass this bill because past efforts have failed to prevent illegal immigration. But let’s not be so defeatist that we throw up our hands and declare we are incapable of learning from our past mistakes.

Under their logic, the famous expression would be changed: When you fall off a bicycle, make sure you never ride a bicycle again.

Finally, I do not countenance the way the 11 million undocumented immigrants living in our midst got here. But they are here now, and deporting all of them is unpractical, unrealistic, and wrong to consider.

Our bill will tell these individuals if they are willing to keep their end of the covenant, their road may be harder and longer—everyone else’s road—a 10-year probationary period, no benefits or assistance of any kind—but it too can end with being given the chance to earn American citizenship if they work hard and pay taxes and play by the rules.

So the bill is the right thing to do from top to bottom. It has more deficit reduction than our best deficit-reducing packages. It will stimulate the economy more than any stimulus bill, and it will make our border more secure than it has ever been in our history.

So now there are simply no more legitimate excuses to vote against this bill.

So the ICE officers have told us: Look, 40 percent of the people now who are here illegally came by visa overstays. The Congressional Budget Office warned of that in their report. It is, therefore, the responsibility of the Immigration Services and the ICE officers have warned of it repeatedly to us in their letters. So this has to be a part of our system. It just has to be. The fact that it is not in there indicates the people who drafted the bill had no real interest in seeing enforcement enhanced, but they actually wanted to allow the enforcement to be weakened. So this is a nonstarter. This has been in the law for over 10 years.

So the ICE officers have told us: Look, 40 percent of the people now who are here illegally came by visa overstays. But that is going to increase dramatically for a lot of reasons. One
of them is we are going to double the number of people who come by visas under this bill. So they have warned us that this concern about a de facto amnesty will continue because we have no people on the international board patrol, has sued States and broken the 287(g) agreements with States that allow them to participate and help the ICE officers do their jobs. States cannot prosecute people. States cannot deport people. But States can, as part of their job, when a police officer arrests somebody for a crime or drunk driving—and they identify them as being illegally in the country—they can take them to the ICE officers and help them do their job. And there are agreements to do this to this effect.

What happened? This administration has eliminated those agreements and canceled the program. I helped write the program. Lots of States were participating happily in it, and they were expected to do anything they did not want to do, but it allowed them to be more effective in doing their job.

So the problem is when you see that missing in this 1,200-page bill, but you see provision after provision after provision that focuses on other issues, focuses on issues important to special interests who helped write the bill. Then you begin to get suspicious about what is happening. That is why the ICE officers and the Citizenship and Immigration Services were so concerned about not being able to participate in the program effectively and to share their views. It is clear they did not want their views. So President Obama—although it has been maintained pretty carefully that he was not involved in writing the legislation, it appears he quite clearly was. They are not happy with the ICE officers. The ICE officers actually sued Secretary Napolitano for stopping them from enforcing the law they have sworn to enforce. They say they are being required to violate their oath and their commitment to the law by politicians in the Homeland Security Department. They have written it in letter after letter after letter, openly saying the politicians in the Department are overriding the law—directing us and undermining our ability to do what we are sworn to do. They have a lawsuit pending about it. I have never heard of that, that officers would do that.

Then we have the confusion over the E-Verify system. Senator PORTMAN improved the bill dramatically with his amendment—or would have. He was not able to get it for a vote. But the E-Verify system is in place today and it is utilized by governments and by contractors who do work for the government. I think people who want to voluntarily use it can use it.

You can give a Social Security number to your boss or your employer-to-be and he runs it and checks. What they find is many illegal workers are otherwise criminals and have 10 points. The computer and the Social Security department catches that. That tells the employer there are six different people using this Social Security number. You should not hire this person until he has been checked out.

So that is the way the E-Verify system works. It takes about 3 months. It has a 98-percent accuracy rate, but the forces out there have blocked the legislation for E-Verify. Even this minimum standard that is operating today, we had to fight to get an extension. I had to hold up legislation to guarantee that they would at least extend the current system because there are forces out there that put in big money that delays it for 5 years. So to me this indicates a lack of seriousness of interest after the amnesty has been given.

After people have been given legal status, they will be given a Social Security number. They will not be hurt by having to have their number checked. They will have a legitimate Social Security number. They will be legal. They will take any job out there. But the people who come in later, the people who did not qualify, people who otherwise were criminals and should not be getting a job and do not qualify for this provisional status, they would be identified for years under this system. It indicates a lack of seriousness in the commitment.

I see Senator GRASSLEY is here. I will wrap up by saying that creating a lawful system of immigration requires more than border enforcement. It is important but you have to have interior enforcement. You have to have workplace enforcement. You have to have entry-exit visa enforcement. This is critical.

As I have been stressing, we do not talk about it enough. The bill also sets out in its 1,200 pages the future flow of workers into America. Our colleagues have said it is a merit-based system. We have a points system. Unfortunately, that is not substantially correct. It looks to us like less than 15 percent of the people enter our country under our plan by a merit-based system. Our colleagues have said that. They are very happy with that. I think about 60 percent of their people do so. The more education you have, the more job skills you have, the more fluency you have in the language, you get more points.

Under this merit-based system, it has about 15 percent of the people covered by it in a point system. The fact that that is less than 15 percent shows that if you have a 4-year college degree, that is only equal to 5 points. It takes a master's degree to get 10 points, equal to the family connection points. So the point system is still skewed to things other than actual job skills, education level, and the ability to be productive and flourish in our society.

We want to bring people to our country who are going to be able to flourish, do well, be able to find a job, and not be unemployed or the only skill they have is one that Americans are applying for in big numbers and they would take a job from an American, unemploying an American. So we have to create a system that serves the national interest and identifies the kind of workers the country needs and we can absorb as a part of the over 1 million or so people we admit each year lawfully into America.

That makes sense to me. Also, the guest worker programs are exceedingly complex. There are W programs, there are E programs. There are different kinds of programs throughout this whole bill. The net result, the number of people who come not to be permanent citizens, not to be immigrants, but come as guest workers will double under this legislation. That makes it harder for the legal immigrant who is new in America trying to find work to get a job. They are having to compete with the guest workers. So those are the kinds of things we need to be thinking about as we go forward.

I wish to express my appreciation to the ranking member of the Judiciary Committee, Senator Chuck Grassley. He has been a student of this problem since 1986. He has shared with us his perspective on it. He has a deep conviction that if we go through this process again, it needs to be done in a way that we can be proud of a few years later, not be embarrassed about as we were after 1986.

So we could create a system that allows a lawful flow to occur but stops the illegal flow in the future. That is the problem I think this legislation has, among others.

Senator Grassley, thank you for your efforts. Good work. I enjoyed working with you and Senator Leahy, who conducted a tough series of hearings. He let us have votes. We got a lot of votes in the Judiciary Committee. He asked if anybody else had another amendment when we finished. We got it done. That has not happened on the floor today. We have only had nine votes, and three of those were motions to table very important amendments that deserved more consideration than that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.
Mr. GRASSLEY. Madam President, I would like to make an inquiry about time. We were supposed to start the last 20 minutes. Is it OK if I start now with my final remarks?

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

Mr. GRASSLEY. Madam President, my colleagues have often heard me speak of my opposition to the legislation that is before us. They have not heard me speak about my opposition to immigration reform. As I have said so many times on this floor and in committee, or even to the press, I have not heard a single Senator say the existing system status quo ought to be maintained.

There are a lot of opinions about what should be done. So as we have seen over the last few weeks, immigration is an emotional issue that engenders strong feelings on both sides of the aisle. Saying it for a second time: Everyone wants reform, but everyone has their own different solutions.

Coming into the debate, I think my position has been very clear. I made it very clear because I have the experience of the 1986 legislation. That was legislation legalizing; it did not solve the problem. We screwed up in 1986 by not securing the border first, even though we had the intention that would happen. Today, we are right back at the same place talking about the same problems, proposing the same solutions. Frankly, the process has not allowed us to fundamentally improve the bill. We have not been able to vote up or down on commonsense amendments. There has been 550 amendments filed. We have taken up about a dozen.

Despite the fact that the American people want the border secured before we provide a path to legalization, there appears to be a majority of this body who believes legalization must come first. Next Monday and Tuesday I will be holding 11 townhall meetings in Iowa. I know what I am going to hear from my people: Yeah, we need immigration legislation. But first we need to enforce the laws that are already on the books before you consider anything new.

Despite what the Gang of 8 wrote in their framework for immigration reform, legalization is not—emphasis upon “not”—contingent upon our success in securing our borders and addressing our visa overstay. The bill will not ensure that a future Congress is not back 25 years from now dealing with the very same problems. We need a bill that insures results. We need a bill that puts security before legalization, not the other way around. We are a nation based upon the rule of law. We have a right to protect our sovereignty and a duty to protect the homeland. Any border security measures we pass must be real and, more importantly, immediate, not 10 years down the road.

We also need meaningful interior enforcement, including allowing immigration officers to do their job and work with State and local officials. Enforcement of the immigration laws has been lax and increasingly selective in the last few years because Federal immigration enforcement officers have been handcapped from doing their job.

The States have tried to step in, but every time the States tried to step in under the 10th Amendment to protect their citizens when the Federal Government refuses. They have been denied the opportunity to control their own borders. The unfortunate reality is the bill does almost nothing to strengthen interior enforcement efforts. It does nothing to encourage cooperation between Federal, State, and local governments.

The Federal Government will continue to look the other way—look the other way as millions of new people enter this country undocumented. Meanwhile, the bill gives the States no new authority to act when the Federal Government refuses. One of the major reasons immigration is a subject of significant public interest is the failure of the Federal Government to enforce existing laws. Some 11 million people have unlawfully entered the country or overstayed their visas because the Federal Government did not deter them or take action to remove them. The bill subsequently weakens current criminal laws and will hinder the ability of law enforcement to protect Americans from criminal undocumented aliens.

In addition to weakening current law, the bill does very little to deter criminal behavior in the future. It ignores sanctuary cities and increases the threshold required for action of what constitutes a crime. Regrettably, the bill is weak on foreign national criminal street gang members, an amendment that I tried to offer, but we could not get the other side to vote on whether gang members ought to be denied benefits in this immigration law.

Furthermore, the bill fails short in protecting Americans who need and want jobs in this country. While I support allowing businesses to bring in foreign workers, they should only do so when qualified Americans are not available. I have long argued that we must enhance and expand opportunities that if they are not in their seats when the time arrives, we are going to have a live quorum. We are going to have everybody here when the vote starts. I know people are anxious to leave, but they better be here or I am going to have a live quorum and it will take a lot of time.

The PRESIDING OFFICIAL. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Madam President, if I may have the attention of the Senator from Iowa.

Mr. REID. I am informing all Senators that if they are not in their seats when the time arrives, we are going to have a live quorum. We are going to have everybody here when the vote starts. I know people are anxious to leave, but they better be here or I am going to have a live quorum and it will take a lot of time.

The PRESIDING OFFICIAL. The Senator from Iowa.

Mr. LEAHY. Will the Senator from Iowa yield for 5 minutes?

Mr. GRASSLEY. I yield to the Senator for 6 1⁄2 minutes. As far as I know, nobody on my side wants the time, and the Senator may have the time.

Once again, I wish to thank everybody who maybe hasn’t heard me say it. The Senator had a fair and open process on our committee. There wasn’t a single Member who didn’t get a chance to offer amendments. This is the way the process ought to work, and the chairman made it work that way.

The PRESIDING OFFICIAL. The Senator has 6 1⁄2 minutes remaining.

Mr. LEAHY. I thank the distinguished Senator for his comments. He also deserves credit. We worked very closely together on this schedule and everything else to make sure all people were heard, as the Senate completes its work on this historic legislation. I also want to recognize Senators and staff members who were instrumental to our effort.

Senator DURBIN, who has championed the DREAM Act for many years, deserves special recognition. I commend him as the Senate approves his hard-fought effort that is included in this bill. Senator DURBIN has helped to bring these compelling stories out of the shadows. He has been dedicated to the young people who will be helped by this legislation like Gaby Pacheco. These brave and patriotic DREAMers have inspired all of us who support the bill’s passage.
Senator SCHUMER’s tenacity and commitment to this effort should be commended. He worked hard to build bipartisan support and was relentless in his advocacy for passage. Senator MENENDEZ fought hard to protect the principles that make this legislation something that is good for Vermont, the United States, and Vermont’s farmers and farm workers. Senator SULLIVAN, Senator FLAKE, Senator GRAHAM, and Senator RUBIO bravely led the Republican Senators throughout this process. I appreciate that their leadership has been a challenge in their caucus. I thank Senator MCCONNELL for his advice as the Judiciary Committee prepared to consider this legislation.

And I thank Senator WHITEHOUSE, Senator COONS, Senator BLUMENTHAL, Senator KLOBUCHAR, and Senator FRANKEN for their work in the Judiciary Committee and for their amendments to make this legislation better. I especially thank Senator HIRONO for her personal efforts and determination to make sure that the interests of Vermonters were protected in this legislation. All of these Senators deserve recognition for their dedication.

The work of the Senate could not be successful without the staff members who work behind the scenes. Though much of our work is especially important when the Senate considers legislation of the magnitude that we have completed today. I take a few moments to recognize the many staff members who contributed to this legislation.

I want to recognize and give my thanks to Bruce Cohen and Kristine Lucius. My former Chief Counsel and Staff Director Bruce Cohen, who is well known to many Senators, has been at my side for nearly 20 years. Though Bruce is leaving the Senate, his mark is on this legislation and he leaves his mark on the Senate Judiciary Committee after years of service. His dedication to the Senate, to the people of Vermont, and the United States has been of the highest caliber and he will be missed.

Kristine Lucius, who has so ably and seamlessly taken over as my Chief Counsel and Staff Director Bruce Cohen, who is well known to many Senators, has been at my side for nearly 20 years. Though Bruce is leaving the Senate, his mark is on this legislation and he leaves his mark on the Senate Judiciary Committee after years of service. His dedication to the Senate, to the people of Vermont, and the United States has been of the highest caliber and he will be missed.

My Chief of Staff, JP Dowd and my Legislative Director Erica Chabot were central to this process. In addition to leading my office, JP guided my entire staff with a steady hand as we considered this legislation. And in addition to coordinating the legislative work of my office, Erica made great contributions to the process this legislation followed through the Committee. Erica’s work was only interrupted by the arrival of a baby boy on June 21st.

I thank Adrienne Wojciechowski, Tom Berry, Delilah Fullinman, Dienstra Derby, and John Tracy for relating this complex bill to Vermont priorities. Their outreach to Vermont farmers, business owners, law enforcement officials, and Vermonters impacted by our broken immigration system was crucial to my work in this big, complex process. And our work in the Committee could not have been conducted without the incredible efforts of our Chief Clerk Roslyne Turner, Deputy Clerk Theresa Reuss, Hearing Clerk Melanie Kartzmer, and former Hearing Clerk Halley Ross, all of whom make our committee run at the highest standard.

And I thank Brian Hockin, who keeps the Committee’s technology running and provided real-time updates during floor action and provided the public with process updates online as they were modified. I give them my thanks and appreciation for their role in making the Judiciary Committee so productive and transparent.

I want to thank my staff members who worked long and hard on this legislation. My Judiciary Committee counsels Matt Virkstis, John Amaya, Chris Leopold, Alexandra Reeve-Givens, Josh Hsu, April Carson, Emily Livingston, and Anya McDermott all committed themselves to this process with professionalism and dedication to advancing this important legislation. My team of lawyers carefully negotiated, reviewed, and drafted thousands of pages of amendments. They worked across the aisle to create consensus and improve our proposal.

I thank the Committee’s Legislative Staff Assistants Emma Van Susteren, Ashley Dennis, Jordan Kolot, and Clark Flynt for their commitment and passion to making this process run smoothly. And I thank my Communications Director David Carle and my Judiciary Committee Press Secretary Jessica Brady for helping to make our process a transparent one and to tell the story of the Senate’s consideration of this legislation.

The staff members of Senators in the group of eight who serve on the Judiciary Committee provided meaningful recognition. Joe Zogby, Mara Silver, Leon Fresco, Stephanie Martz, Chandler Morse, Elizabeth Taylor, and Sergio Sarkany served the Senate well.

I want to recognize the staff of the Judiciary Committee’s Ranking Member Senator GRASSLEY, Kolan Davis and Kathy Nuebel. They served Senator GRASSLEY and the Senate with weeks of tireless effort to make our committee process a productive one. I thank Ranking Member GRASSLEY for his cooperation during the Committee’s consideration of this legislation.

The floor staff that keep the Senate running deserve special recognition and thanks. The Democratic Secretary Gary Myrick, Assistant Secretary Tim Mitchell, and Reema Dodin serve the Senate admirably and their assistance to Senators is indispensable. The Majority Leader’s staff members Bill Dauster and Serena Hoy lent their expertise and presence to this process. I thank them all.

I thank the members of President Obama’s staff who provided invaluable technical expertise and assistance to the Senate. My former Chief of Staff, John Tracy, along with the countless staff of the White House led by Ricardo Rodriguez, led a tremendous effort in the Senate for the President. The President’s Director of the White House Policy Council Cecilia Munoz and her team, Felicia Escobar and Tyler Moran were instrumental in this effort.

And I want to especially thank Esther Olavarria. Esther served Senator Kennedy for many years on the Judiciary Committee, and has lent her intellect, her vast knowledge of immigration, and her great sense of humanity to previous efforts in the Senate. I know Senator Kennedy would be very proud of her service to the President.

Finally, I want to recognize the tremendous work done by the Office of the Senate Legislative Counsel. They are the attorneys who serve the United States Senate to turn ideas into legislative text. I especially thank Matt McOhie and Stephanie Easley who helped with the Ohio legislation and律师事务所 from Senate offices to draft this legislation. I thank them and all of the attorneys and staff in that office who serve all Senators with tremendous professionalism and skill.

Many other staff members in the Senate contributed to this effort in ways that will be largely unheralded by the public. But it is important to recognize the role that the dedicated men and women who serve Senators play in directly finding us, and representing American people. Their work behind the scenes on this historic bill allowed Members to agree in principle and make their compromise a meaningful reality.

I am proud of the Senate’s work today and I thank everyone who made this process a successful one.

Our American story is a story of immigration. It is not only our history, it is our future. Over the last few weeks, many of us have spoken about our own personal immigration stories. We all have such stories. I heard the distinguished Democratic whip, Senator DUNBAR, speak of the very moving story of his family and also what he has done with DREAMers. We have talked about our parents and grandparents seeking better lives for us to earn all relate to the most compelling, innate urge to sacrifice for the ones we love.

We are inspired by our forebears who wished better lives for us and for themselves, and found those opportunities here in America. They taught us the fundamental values of family, hard work, and fairness. With this legislation, we honor those American values.
June 27, 2013

CONGRESSIONAL RECORD — SENATE

S5355

We honor their search for freedom, for prosperity, and for the promise that America has held out to so many for so long. I am proud to be a Member of the Senate. Today is a good day for the Senate. It is a good day for the country. Today, with the help of many Senators, we will address a complex problem that is hurting our families, stifling our economy, and threatening our security.

Senator Marco Rubio and four Republicans began negotiating and drafting immigration reform legislation. They produced a carefully balanced, fair, and humane proposal that at its core is intended to make meaningful improvements to border security and, most importantly, will help millions of people who dream the same dreams our ancestors did.

I am proud of the role the Judiciary Committee has played in this process, and I thank the Senators of both parties who have praised that role.

In late April, with the full participation of all 18 members of the Senate Judiciary Committee, with unprecedented transparency, and with fairness to all members in offering amendments and having the chance to debate them, we held several public markups to consider that legislation. Over 37 hours during the course of 3 weeks, we engaged in vigorous debate in full view of the American public. We considered 212 amendments from Democrats and Republicans. We approved 136 amendments in a room filled with spectators on both sides of the issue. Of the amendments approved in committee, 47 were Republican amendments and all but three were adopted with bipartisan support. Even the staunchest opponents of this legislation have praised that fairness.

The world has never seen such a vibrant, cohesive, economically exuberant, and culturally successful experiment as our country. Every one of us as Americans should be proud of that.

A key ingredient of our successful formula has been and will continue to be immigrants anxious to be part of the American experience. They have helped us to be a Nation in constant renewal, welcoming and using this constant influx of fresh talent and energy. Just as my grandparents and my wife Marcelle’s parents made Vermont and America better, they have made us better.

Today is another historic day in the Senate. The Senate will soon complete its work on remedies for an immigration system; this legislation is what this is about. It is a good day for the country. Today, with the help of many Senators, we will address a complex problem that is hurting our families, stifling our economy, and threatening our security.

A decade passed before Astrid realized she had come to America illegally, without proper immigration papers. Her parents cautiously, slowly explained this to their daughter.

Astrid’s eighth-grade class was going to leave Las Vegas and take a trip back here to the Nation’s Capital. Astrid couldn’t go. She didn’t go. Her parents were afraid to let her travel for fear she would be arrested. She was undocumented. Flying, you see, without proper identification meant running the risk of being detained or deported.

A few years later, when Astrid’s friends learned to drive, Astrid once again was separated from her friends. She couldn’t learn to drive. She didn’t have even the right to study for the driver’s test because she wasn’t eligible.

When Astrid’s classmates headed off to school across the country, she stayed home. She didn’t go to university; she went to school at a local community college.

Astrid has accepted every challenge, every setback with grace, knowing the obstacles would never outweigh the advantages of growing up in the United States, her home.

Four years ago Astrid’s grandmother died. Neither Astrid nor her father could go to Mexico because her dad was also undocumented. They weren’t able to go to the funeral. If she left the United States, she couldn’t come back. She couldn’t come back to the only country she had ever called home.

There then came a time, and it came slowly, very cautiously, very carefully. Finally Astrid knew it was time to raise her voice. In effect, she had had enough. It was time for her to come out of the shadows and share her story with her friends and with others. A lot of her friends were just like her. She could share the stories with them and they could share the stories with each other. It was time for her, her classmates in many instances, and her community to learn who Astrid Silva really was. She spoke up. She told her story.

She decided to find a public place where I would be at a public event and give me the first of many heartfelt letters. I only have a few of them. A few of them didn’t make it to my office, but I appreciate each and every one of those letters. Astrid became, very quickly, a DREAMer.

One of the letters I remember so well. She said in the letter words to this effect: I have never, ever as much as stolen even a piece of gum, but I feel like a criminal even though I am not a criminal. I appreciate every one of those letters she sent me because each was a reminder of what’s at stake in this debate—a debate that involves our neighbors, friends, and, yes, relatives. Each note, each letter indicates that to me.

This bipartisan legislation the Senate is poised to pass in just a few minutes does not just secure our borders or just mend our broken legal immigration system; this legislation is what
Astrid has advocated, what the DREAMers and others have advocated. This legislation is what she and millions have hoped for and, yes, prayed for. The bill paves the way for people just like Astrid—people who are American in all but paperwork—to become full-fledged citizens of the country they call home. It acknowledges the contributions of generations of immigrants who founded this country and built it into the superpower it is today, immigrants such as a man named Israel Goldfarb. He left Russia as a young man, Jewish, and being persecuted, he and his family, so he came to America as a boy. This man was my wife’s dad.

I often think of him for a lot of reasons. He died as a real young man. Perhaps a lot of people think he didn’t contribute much to our society, but he had one child, my wonderful wife, and now we have 16 grandchildren. So he contributed that—five children, 16 grandchildren. On his deathbed—as I said as a young man—he gave me his ring. I have that ring for many, many years. I take it off at night and put it on every day. This watch I have—it stopped running a couple of months ago and the jeweler said: It is broken. It is worn out. It is 50 years old. It is an old-fashioned watch. I have to wind it every morning, but they fixed it. I got the watch back and it is good for another 50 years. I could buy a different watch, but I am not one to buy a different watch. These are who I am and they remind me every day of this man who came to America as Israel Goldfarb and, similar to all of his family, changed his name to Earl Gould. My wife, when I met her as a sophomore in high school, was Landra Gould.

So this bipartisan legislation we are poised to pass in just a little while does not just secure our borders or just mend our broken legal system; this legislation that has been advocated paves the way for people such as Astrid and, frankly, people such as my father-in-law, peace. It acknowledges the contributions of generations of immigrants who founded this country.

This historic legislation recognizes that today’s immigrants came for the right reason—the same reason generations before them, the same as Israel Goldfarb—to achieve a dream we take for granted, a right to live in a land that is free.

Ted Kennedy said it best:

From Jamestown, to the pilgrims, to the Irish, to workers, people have come to this country in search of opportunity. They have sought nothing more than a chance to work hard and bring a better life to their families. They came to our country with their hearts and minds full of hope. That is what Ted Kennedy said, and the bipartisan legislation before the Senate respects and fulfills that hope, that dream of Astrid and millions just like her. It will help 11 million people who are tired of looking over their shoulders and fearing deportation to get right with the law and start down a pathway to citizenship.

That path is going to be very hard, with penalties, fines, work, paying taxes, staying out of trouble, and learning English, but they are willing to do that, every one of them. It will mean paying the NAFTA tariff line. It is tough, I repeat, but it is fair.

Above all, this legislation is very practical. It makes unprecedented investments in our borders. It cracks down on crooked employers, such as those who exploited and abused Astrid Silva earlier today, that exploit and abuse immigrant workers, and it reforms our legal immigration system. This legislation will be good for America’s national security as well as its economic security. This will reduce the deficit by $1 trillion. How is that for economic security.

Six years ago, the last time we considered a sweeping immigration overhaul—led by Senator McCain and, yes, that same Bob Corker who became Secretary of the Interior, Ken Salazar—it didn’t work. The prospects for a bipartisan solution were very dim. On the last day, the immigration bill fell because of a procedural roadblock. But Ted Kennedy did his level best to ensure that we kept trying, to ensure that we kept trying, to ensure that we kept trying. And he was very successful. He and I came to the Congress together more than 31 years ago. We came to the Senate together. Have we fought with each other? Yes. But we care for each other. We have a great deal about each other. John McCain, no matter what happens, I will always admire how he handles everything he does but especially what he did on this bill.

That is what Ted Kennedy said. Because of the Gang of 8—these courageous Senators, four Democrats and four Republicans; Menendez, Durbin, McCain, Bennett, McCaskill, Blumenthal, Gillibrand, Feingold, Menendez, and, of course, the quiet one who did so much, Senator Bennett, and John McCain, whom I admire so much. He and I came to the Congress together more than 31 years ago. We came to the Senate together. Have we fought with each other? Yes, but we care deeply in its cause to keep the faith. Here is what he said.

We will be back and we will prevail. . . . America always finds a way to solve its problems, expand its frontiers, and move closer to its ideals. It is not always easy, but it is the American way.

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The bill (S. 744), as amended, was passed, as follows:

See S. 744.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Border Security, Economic Opportunity, and Immigration Modernization Act.”

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Statement of congressional findings.
Sec. 3. Effective date triggers.
Sec. 4. Southern Border Security Commission.
Sec. 6. Comprehensive Immigration Reform Funds.
Sec. 7. Reference to the Immigration and Nationality Act.
Sec. 8. Definitions.
Sec. 9. Grant accountability.

TITLE I—BORDER SECURITY AND OTHER PROVISIONS

Subtitle A—Border Security
Sec. 101. Definition of Northern Border Oversight Task Force.
Sec. 102. Additional U.S. Border Patrol and U.S. Customs and Border Protection officers.
Sec. 103. National Guard support to secure the Southern border.
Sec. 104. Enhancement of existing border security operations.
Sec. 105. Border security on certain Federal land.
Sec. 106. Equipment and technology.
Sec. 107. Access to emergency personnel.
Sec. 108. Southwest Border Region Prosecution Initiative.
Sec. 109. Interagency collaboration.
Sec. 110. State Criminal Alien Assistance Program.
Sec. 111. Use of force.
Sec. 112. Training for border security and immigration enforcement officers.
Sec. 115. Protection of fairly valued properties in apprehension programs.
Sec. 116. Oversight of power to enter private land and stop vehicles without a warrant at the Northern border.
Sec. 117. Reports.
Sec. 118. Severability and delegation.
Sec. 119. Prohibition on new land border crossing fees.
Sec. 120. Human Trafficking Reporting.
Sec. 121. Rule of construction.
Sec. 122. Limitation on dangerous deportee transportation practices.
Sec. 123. Maximum allowable costs of salaries of contractor employees.
Sec. 124. Other Matters.
Sec. 125. Removal of nonimmigrants who overstay their visas.

Sec. 1202. Visa overstay notification pilot program.
Sec. 1203. Preventing unauthorized immigration through Mexico.

TITLE II—IMMIGRANT VISAS

Subtitle A—Registration and Adjustment of Registered Provisional Immigrants
Sec. 1201. Registered provisional immigrant status.
Sec. 1202. Adjustment of status of registered provisional immigrants.
Sec. 1203. The DREAM Act.
Sec. 1204. Additional requirements.
Sec. 1205. Criminal history.
Sec. 1206. Grant program to assist eligible applicants.
Sec. 1207. Conforming amendments to the Immigration and Naturalization Act.
Sec. 1208. Government contracting and acquisition of real property interferences.
Sec. 1209. Long-term legal residents of the Commonwealth of the Northern Mariana Islands.
Sec. 1210. Rulemaking.
Sec. 1211. Statutory construction.

Subtitle B—Agricultural Worker Program
Sec. 1220. Agricultural Worker Program.
Sec. 1221. Requirements for blue card status.
Sec. 1222. Adjustment to permanent resident status.
Sec. 1223. Use of information.
Sec. 1224. Reporting on blue card.
Sec. 1225. Authorization of appropriations.
Sec. 1226. Continuous presence.
Sec. 1227. Reunification of certain families.
Sec. 1228. Establishment of nonimmigrant agricultural worker programs.
Sec. 1229. Reports to Congress on nonimmigrant agricultural worker programs.

CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISAS

Sec. 1231. Nonimmigrant classification for nonimmigrant agricultural workers.
Sec. 1232. Establishment of nonimmigrant agricultural worker program.
Sec. 1233. Transition of H-2A Worker Program.
Sec. 1234. Reports to Congress on nonimmigrant agricultural workers.

CHAPTER 3—OTHER PROVISIONS

Sec. 1241. Authorization of appropriations.

CHAPTER 4—REDUCE BARRIERS TO NATURALIZATION

Sec. 1251. Waiver of English requirement for senior new Americans.
Sec. 1252. Filing of applications not requiring regular internet access.
Sec. 1253. Permissible use of assisted housing by battered immigrants.
Sec. 1254. United States citizenship for internationally adopted individuals.
Sec. 1255. Treatment of certain persons as having satisfied English and civics, good moral character, and honorable service and discharge requirements for naturalization.

TITLE III—INTERIOR ENFORCEMENT

Subtitle A—Employment Verification System
Sec. 1303. Employment eligibility verification.

Subtitle B—Employment and Economic Opportunity
Sec. 1311. Employment and economic opportunity.

Subtitle C—Future Immigration
Sec. 1321. Extension and improvement of the Afghan special immigrant visa program.
Sec. 1322. Extension and improvement of the Iraqi special immigrant visa program.
Sec. 1323. Special Immigrant Nonminister Religious Worker Program.
Sec. 1324. Special immigrant status for certain surviving spouses and children.
Sec. 1325. Reunification of certain families of Filipino veterans of World War II.
Sec. 1326. Ensuring compliance with restrictions on welfare and public benefits for aliens.

Subtitle D—Conrad State 30 and Physician Access
Sec. 1331. Conrad State 30 Program.
Sec. 1332. Requiring physicians who have practiced in medically underserved communities.
Sec. 1333. Employment protections for physicians.
Sec. 1334. Allotment of Conrad 30 waivers.
Sec. 1335. Amendments to the procedures, definitions, and other provisions related to physician immigration.

Subtitle E—Integration

CHAPTER 1—CITIZENSHIP AND NEW AMERICANS

Sec. 1341. Office of Citizenship and New Americans.

SUBCHAPTER A—OFFICE OF CITIZENSHIP AND NEW AMERICANS

Sec. 1342. Establishment of the United States Citizenship Foundation.
Sec. 1343. Funding.
Sec. 1344. Purposes.
Sec. 1345. Authorized activities.
Sec. 1346. Council of directors.
Sec. 1347. Powers.
Sec. 1348. Initial Entry, Adjustment, and Citizenship Assistance Grant Program.
Sec. 1349. Pilot program to promote immigrant integration at State and local levels.
Sec. 1350. Naturalization ceremonies.

CHAPTER 2—PUBLIC-PRIVATE PARTNERSHIP

Sec. 1351. Establishment of United States Citizenship Foundation.
Sec. 1352. Funding.
Sec. 1353. Purposes.
Sec. 1354. Authorized activities.
Sec. 1355. Council of directors.
Sec. 1356. Powers.

CHAPTER 3—FUNDING

Sec. 1361. Authorization of appropriations.

CHAPTER 4—REDUCE BARRIERS TO NATURALIZATION

Sec. 1371. Waiver of English requirement for senior new Americans.
Sec. 1372. Filing of applications not requiring regular internet access.
Sec. 1373. Permissible use of assisted housing by battered immigrants.
Sec. 1374. United States citizenship for internationally adopted individuals.
Sec. 1375. Treatment of certain persons as having satisfied English and civics, good moral character, and honorable service and discharge requirements for naturalization.
so. But in order to qualify for the honor and privilege of eventual citizenship, our laws must be followed. The world depends on America to be strong—economically, militarily and in the establishment of a stable, just, and efficient immigration system only supports those goals. As a Nation, we have the responsibility to make our borders safe, to establish clear and just rules for seeking citizenship, to control the flow of legal immigration, and to eliminate illegal immigration. This baseline has become a threat to our national security.

(4) All of these actions are premised on the right and need of the United States to achieve these goals, to protect its borders and maintain its sovereignty.

**SECTION 2. EFFECTIVE DATE TRIGGERS.**

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ‘Commission’ means the Southern Border Security Commission established pursuant to section 4.

(2) EFFICIENCY.—The term ‘efficiency’ means the ability to achieve and maintain, in a Border Patrol sector—

(A) persistent surveillance; and

(B) an effectiveness rate of 50 percent or higher.

(4) EFFECTIVENESS RATE.—The ‘effectiveness rate’, in the case of a border sector, is the percentage calculated by dividing the number of apprehensions and turn backs in the sector during a fiscal year by the total number of alien entries in the sector during such fiscal year.

(5) SOUTHERN BORDER.—The term ‘Southern border’ means the international border between the United States and Mexico.

(b) BORDER SECURITY POLICY.—The Department’s border security policy is to achieve and maintain effective control of all border sectors along the Southern border.

(c) TRIGGERS.—

(1) PROCESSING OF APPLICATIONS FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.—Not earlier than the date upon which the Secretary has submitted to Congress the Notice of Commencement of Implementation of the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy under section 5 of this Act, the Secretary may commence processing applications for registered provisional immigrant status pursuant to section 265B of the Immigration and Nationality Act, as added by section 2101 of this Act.

(2) ADJUSTMENT OF STATUS OF REGISTERED PROVISIONAL IMMIGRANT STATUS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 266B(b) of the Immigration and Nationality Act, but not later than 2 years after the date on which the Secretary, after consultation with the Attorney General, the Secretary of Defense, and the Comptroller General of the United States, submits to the President and Congress a written certification that

(i) the Comprehensive Southern Border Security Strategy—

(ii) has been submitted to Congress and includes minimum requirements described under paragraph (3), (4), and (5) of section 5(a); and

(iii) is deployed and operational (for purposes of this clause the term ‘operational’ means the technology, infrastructure, and personnel, deemed necessary by the Secretary, in consultation with the Attorney General and the Secretary of the Army, and the Comptroller General, and includes the technology described under section 5(a)(3) to achieve effective control of the Southern border, has been procured, funded, and is in current use by the Department to achieve effective control, except in the event of routine maintenance, de minimis non-deployment, or natural disaster that would prevent the use of such assets.

(b) The Secretary shall submit to Congress and implement, and as a result the Secretary will certify that there is in place along the Southern Border no fewer than 700 miles of pedestrian fencing which will include replacement of all currently existing vehicle fencing with non-triffle pedestrian fencing along the Southern Border with pedestrian fencing where possible, and after this has been accomplished may include a second layer of pedestrian fencing in those locations along the Southern Border where the Secretary deems necessary or appropriate.

(c) The Secretary has implemented the mandatory employment verification system required by section 274A of the Immigration and Nationality Act (8 U.S.C.1324a), as amended by section 3010, for use by all employers to prevent unauthorized workers from obtaining employment in the United States;

(d) The Secretary is using the electronic exit system created by section 3303(a)(1) at all international air and sea ports of entry within the United States where U.S. Customs and Border Protection officers are currently deployed; and

(e) No fewer than 38,405 trained full-time active duty U.S. Border Patrol agents are deployed, stationed, and maintained along the Southern Border.

The Secretary shall permit registered provisional immigrants to apply for an adjustment to lawful permanent resident status if—

(i) litigation or a force majeure has prevented or made more of the conditions described in clauses (i) through (iv) of subparagraph (A) from being implemented; or

(ii) the implementation of subparagraph (A) has been held unconstitutional by the Supreme Court of the United States or the Supreme Court has granted certiorari to the litigation on the constitutionality of implementation of subparagraph (A); and

(iii) 10 years have elapsed since the date of the enactment of this Act.

The waiver of legal requirements necessary for improvement at borders—Notwithstanding any other provision of law, the Secretary is authorized to waive all legal requirements that the Secretary determines to be necessary to ensure expeditious construction of the barriers, roads, or other physical tactical infrastructure needed to fulfill the requirements under this section. The waiver shall be effective upon publication in the Federal Register of a notice that specifies each law that is being waived and the Secretary’s explanation for the determination to waive that law. The waiver shall expire on the later of the date on which the Secretary submits the written certification that the
Southern Border Fencing Strategy is substantially completed as specified in subsection (c)(2)(A)(ii) or the date that the Secretary submits the written certification that the Comprehensive Southern Border Security Strategy is substantially deployed and substantially operational as specified in subsection (a)(1). (e) FEDERAL COURT REVIEW.—

(1) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all cases at law or in equity arising from any action undertaken, or any decision made, by the Secretary under subsection (d). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court does not have jurisdiction to hear any claim not specified in this paragraph.

(2) FOR PRELIMINARY INJUNCTION.—If a cause of action or claim under paragraph (1) is not filed within 60 days after the date of the contested action or decision by the Secretary, the claim shall be barred.

(3) APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

SEC. 4. SOUTHERN BORDER SECURITY COMMISSION

(a) ESTABLISHMENT.—

(1) IN GENERAL.—No later than the date that is 1 year after the date of the enactment of this Act, there is established a commission to be known as the “Southern Border Security Commission” (referred to in this section as the “Commission”).

(2) COMMISSIONERS AND REPORT.—Only if the Secretary cannot certify that the Department has achieved effective control in all border sectors for at least 1 fiscal year before the date that is 5 years after the date of the enactment of this Act—

(A) the report described in subsection (d) shall be submitted; and

(B) 60 days after such report is submitted, the funds made available in section 8(a)(3)(A)(ii) may be expended except as provided in subsection (l).

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall be composed of—

(A) 8 members who shall be appointed by the President;

(B) 2 members who shall be appointed by the President pro tempore of the Senate, of which—

(i) 1 shall be appointed upon the recommendation of the leader of the Senate in the House of Representatives who is not the political party of the President; and

(ii) 1 shall be appointed upon the recommendation of the leader in the Senate of the other political party;

(C) 2 members who shall be appointed by the Speaker of the House of Representatives, of which—

(i) 1 shall be appointed upon the recommendation of the leader in the House of Representatives of the political party that is not the political party of the President; and

(ii) 1 shall be appointed upon the recommendation of the leader in the House of Representatives of the other political party; and

(D) 5 members, consisting of 1 member from the Southern Border Sector of the U.S. Border Patrol, 1 member from the Department of Homeland Security, and 3 members who—

(i) are likely to achieve effective control in all border sectors; (ii) are in the judgment of the Commission likely to achieve effective control in all border sectors; and

(iii) are likely to achieve cost-effective control in all border sectors.

(2) QUALIFICATIONS FOR APPOINTMENT.—The members of the Commission shall be distinguished by their knowledge and experience in the field of border security at the Federal, State, or local level and may also include reputable individuals who are landowners in the Southern border area with first-hand experience with border issues.

(3) TIME FOR APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 1 year after the date of the enactment of this Act.

(4) CHAIR OF THE COMMISSION.—(A) In the case of the meeting of the Commission, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(B) VACANCIES.—If the Commission shall not appoint its members within 1 year after the date of the enactment of this Act, the Speaker of the House of Representatives shall appoint and the Senate shall confirm the required number of members to be appointed by the Speaker of the House of Representatives.

(C) APPOINTMENT TO FILL VACANCIES.—In the case of a vacancy in the Commission created by the death, resignation, or removal of a member, the President shall appoint a new member to serve for the remainder of the term of the member.

(D) REMOVAL OF COMMISSIONER.—Notwithstanding any other provision of law, the President may remove any member of the Commission for cause.

(e) T RAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent funds are available for such purposes.

(f) A DMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission such staff and services as may be necessary and appropriate for the Commission to perform its functions. The Commission shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent funds are available for such purposes.

(g) COMMISSION REPORT.—(A) The Commission shall submit to the President, the Secretary, and Congress a report setting forth specific recommendations for policies for achieving and maintaining the border security goals specified in section 3(b) by achieving and maintaining—

(A) the capability to engage in, and engaging in, persistent surveillance in border sectors along the Southern border; and

(B) an effectiveness rate of 90 percent or higher in all border sectors along the Southern border.

(2) PUBLIC HEARINGS.—(A) IN GENERAL.—The Commission shall convene at least 6 public hearing each year on border security.

(B) REPORT.—The Commission shall provide a summary of each hearing convened pursuant to subparagraph (A) to the entities set out in subparagraph (A) through (G) of section 5(a)(1).

(d) EXPENDITURES AND REPORT.—Only if the Secretary determines that the Department has achieved effective control in all border sectors for at least 1 fiscal year before the date that is 5 years after the date of the enactment of this Act, the Commissioner may expend the funds made available in section 8(a)(1)(A) for expenses incurred by the Commission.

(e) T RAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent funds are available under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of their duties for the Commission.

(f) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission such staff and administrative services as may be necessary for the Commission to perform its functions. Any employee of the executive branch of Government who is detailed to the Commission may perform any function of the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service or status or privilege.

(g) COMMISSION GENERAL REVIEW.—The Comptroller General of the United States shall review the recommendations in the report submitted under subsection (d) in order to determine—

(1) whether any of the recommendations are likely to achieve effective control in all border sectors; (2) which recommendations are most likely to achieve cost-effective control in all border sectors; and

(3) whether such recommendations are feasible within existing budget constraints.

(h) TERMINATION.—The Commission shall terminate 10 years after the date of the enactment of this Act.

(i) FUNDING.—The amounts made available under subsection (c)(2)(A)(ii) to carry out programs, projects, and activities recommended by the Commission may not be expended prior to the date that is 60 days after a report required by subsection (d) is submitted and, in no case, prior to 60 days after the date that is 5 years after the date of the enactment of this Act, except that funds made available under section 6(a)(1)(A)(ii) may be used for minimal administrative expenses directly associated with convening the public hearings required by subsection (c)(2)(A) and preparing and publishing summaries of such hearings required by subsection (c)(2)(B).

SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY STRATEGY AND SOUTHERN BORDER FENCING STRATEGY

(a) COMPREHENSIVE SOUTHERN BORDER SECURITY STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General and the Secretary of Defense, shall submit a strategy to be known as the “Comprehensive Southern Border Security Strategy” to the President, Congress, the Secretary of Homeland Security, and the Secretary of Defense for achieving effective control between and at the ports of entry in all border sectors along the Southern border.

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

(B) the Committee on Homeland Security of the House of Representatives;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Appropriations of the House of Representatives;

(E) the Committee on the Judiciary of the Senate;

(F) the Committee on the Judiciary of the House of Representatives;

(G) the Committee on Armed Services of the Senate;

(H) the Committee on Armed Services of the House of Representatives; and

(I) the Comptroller General of the United States.

(b) ELEMENTS.—The Comprehensive Southern Border Security Strategy shall specify—

(A) the priorities that must be met for the strategy to be successfully executed; and

(B) the capabilities required to meet each of the priorities referred to in subparagraph (A), including—

(i) surveillance and detection capabilities developed or used by the various Department of Homeland Security agencies for the Federal government for the purposes of enhancing the functioning and operational capability to conduct continuous and integrated manned or unmanned, monitored, sensing, and surveillance of 100 percent of Southern border mileage or the immediate vicinity of the Southern border;

(ii) the requirement for stationing sufficient Border Patrol agents and Customs and Border Protection officers between and at ports of entry along the Southern border; and

(iii) the necessary and qualified staff and equipment to fully utilize available unmanned, unmanned aerial systems and unmanned ground vehicles with surveillance and/or surveillance of 100 percent of Southern border mileage or the immediate vicinity of the Southern border;

(c) MINIMUM REQUIREMENTS.—The Comprehensive Southern Border Security Strategy shall specify—

(1) the priorities referred to in subparagraph (A), including—

(A) Arizona (Yuma and Tucson sectors);—

(2) the Arizona (Yuma and Tucson sectors) border sectors; and

(3) the Yuma and Tucson sectors between ports of entry of the following:

(i) 50 integrated fixed towers.
(i) 73 fixed camera systems (with relocation capability), which include Remote Video Surveillance Systems.
(ii) 28 mobile surveillance systems, which include mobile video surveillance systems, agent-portable surveillance systems, and mobile surveillance capability systems.
(iii) 685 unattended ground sensors, including seismic, imaging, and infrared.
(iv) 22 fiber-optic tank inspection scopes.
(vi) 14 portable contraband detectors.
(vii) 21 communications repeaters.
(viii) 2059 personal radiation detectors.
(ix) 24 mobile automated targeting systems.
(iv) 573 unattended ground sensors, including seismic, imaging, and infrared.
(v) 124 handheld equipment devices, including handheld thermal imaging systems and night vision goggles.
(vi) 38 sensor repeaters.
(vii) 38 communications repeaters.
(ii) AT POINTS OF ENTRY, CHECKPOINTS.—At points of entry, checklists the following:
(I) 1 non-intrusive inspection system.
(ii) 7 fiber-optic tank inspection scopes.
(iii) 18 license plate readers, including mobile, tactical, and fixed.
(iv) 2 backscatter.
(v) 14 portable contraband detectors.
(vi) 2 radiation iso\-tropic identification devices updates.
(vii) 18 radiation iso\-tropic identification devices updates.
(ix) 135 personal radiation detectors.
(iii) AIR AND MARINE ACROSS THE SOUTH-\WEST BORDER.—For air and marine across the Southwest border the following:
(1) 4 unmanned aircraft systems.
(2) 6 A/VAIR radar systems.
(3) 17 UH-1N helicopters.
(4) 8 C-20H aircraft upgrades.
(5) 8 AS-350 light enforcement helicopters.
(6) 10 Blackhawk helicopter 10 A-L conversions, 5 new Blackhawk M Model.
(7) 30 marine vessels.

4 DEPLOYMENT OF RESOURCES TO SOUTHERN EX\\-PECTIVE CONTROL. The Secretary may reallocate the personnel, infrastructure, and technologies required in the Southern Border Security Strategy to achieve effective control of the Southern border.

5 ALTERNATE TECHNOLOGY.—If the Secretary determines that an alternate or new technology is at least as effective as the technologies described in paragraph (3) and provides a commensurate level of security, the Secretary may deploy that technology in its place and without regard to the minimums or constraints in this section. The Secretary shall notify Congress within 60 days of any such determination.

6 ANNUAL REPORT.—Beginning 1 year after the enactment of this Act, and annually thereafter, the Secretary shall provide to Congress a written report to Congress on the
sector-by-sector deployment of infrastructure and technologies.

(7) Additional elements regarding execution.—The Comprehensive Southern Border Security Strategy shall describe—

(A) how the resources referred to in paragraph (2)(C) will be properly aligned with the priorities referred to in paragraph (2)(A) to ensure that the strategy will be successfully executed;

(B) the interim goals that must be accomplished to successfully implement the strategy; and

(C) the schedule and supporting milestones under which the Department will accomplish the interim goals referred to in subparagraph (B).

(8) Implementation.—

(A) in general.—The Secretary shall commence implementation of the Comprehensive Southern Border Security Strategy immediately after submitting the strategy under paragraph (1).

(B) Notice of commencement.—Upon commencing the implementation of the strategy, the Secretary shall submit a notice of commencement of such implementation to—

(i) Congress; and

(ii) the Comptroller General of the United States.

(9) Biennial reports.—

(A) in general.—Not later than 180 days after the Comprehensive Southern Border Security Strategy is submitted under paragraph (1), and every 180 days thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on the Judiciary of the Senate; the Committee on Homeland Security and Governmental Affairs of the House of Representatives; the Committee on Appropriations of the Senate; the Committee on Appropriations of the House of Representatives; the Committee on the Judiciary of the Senate; and the Committee on the Judiciary of the House of Representatives, a report on the status of the Department’s implementation of the strategy to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate;

(ii) the Committee on Homeland Security of the House of Representatives;

(iii) the Committee on Appropriations of the Senate;

(iv) the Committee on Appropriations of the House of Representatives;

(v) the Committee on the Judiciary of the Senate; and

(vi) the Committee on the Judiciary of the House of Representatives; and

(B) additional information.—In each report submitted under subparagraph (A), the Secretary shall—

(i) a detailed description of the steps the Department has taken, or plans to take, to execute the strategy submitted under paragraph (1), and the progress made toward achieving the interim goals and milestone schedule established pursuant to subparagraphs (B) and (C) of paragraph (3);

(ii) any impediments identified in the Department’s efforts to execute the strategy;

(iii) the actions the Department has taken, or plans to take, to address such impediments; and

(iv) any additional measures developed by the Department to measure the state of security along the Southern border, and

(v) for each Border Patrol sector along the Southern border:

(I) the effectiveness rate for each individual Border Patrol sector and the aggregated effectiveness rate;

(II) the number of recidivist apprehensions, sorted by Border Patrol sector; and

(III) the recidivism rate for all unique subjects that received a criminal consequence through the Consequence Delivery System process.

(C) Final review.—The Comptroller General of the United States shall conduct an annual review of the information contained in the semiannual reports submitted by the Secretary under paragraph (B) and submit an assessment of the status and progress of the Southern Border Security Strategy to the committees set forth in subparagraph (A).

(9) Southern Border Fencing Strategy.—

(A) Establishment.—Not later than 180 days after the enactment of this Act, the Secretary shall establish a strategy, to be known as the “Southern Border Fencing Strategy”, to identify where 700 miles of fencing is to be constructed, including the border with Mexico, if the Secretary determines that the construction of such fencing is most appropriate means to achieve and maintain effective control over the Southern border.

(B) Submittal.—The Secretary shall submit the Southern Border Fencing Strategy to Congress and the Comptroller General of the United States for review.

(3) Notice of commencement.—Upon commencing the implementation of the Southern Border Fencing Strategy, the Secretary shall submit a notice of commencement of the implementation of the Strategy to Congress and the Comptroller General of the United States.

(4) Consultation.—In implementing the Southern Border Fencing Strategy required by this subsection, the Secretary shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

(5) Savings provisions.—Nothing in this paragraph may be construed to—

(I) create or negate any right of action for a State or local government or other person or entity affected by this subsection; or

(II) affect the pre-emption and dormant domain laws of the United States or of any State.

(6) Limitation on requirements.—Notwithstanding paragraph (1), nothing in this subsection shall require the Secretary to install fencing, or infrastructure that directly results from the installation of such fencing, in a particular location along the Southern border, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain effective control over the Southern border.

SEC. 6. Comprehensive Immigration Reform Funds.

(a) Comprehensive Immigration Reform Trust Fund.—

(1) Establishment.—There is established in the Treasury a separate account, to be known as the “Comprehensive Immigration Reform Trust Fund”, consisting of—

(A) amounts transferred from the general fund of the Treasury under paragraph (2)(A); and

(B) proceeds from the fees described in paragraphs (2)(B) and (2)(C).

(2) Deposits.—

(A) Initial funding.—On the later of the date of enactment of this Act or October 1, 2013, $3,000,000,000 shall be transferred from the general fund of the Treasury to the Comprehensive Immigration Reform Trust Fund.

(B) Ongoing funding.—Notwithstanding section 3302 of title 31, United States Code, in addition to the funding described in subparagraph (A), and subject to paragraphs (3)(B) and (4), the following amounts shall be deposited in the Trust Fund:

(I) electrons travel authorization system fees.—Fees collected under section 217(h)(3)(B)(i)(II) of the Immigration and Nationality Act, as added by section 1102(c).

(II) registered provisional immigrant fee.—Fees collected under section 245B(c)(10)(C) of the Immigration and Nationality Act, as added by section 2101.
(i) $30,000,000,000 shall remain available for the 10-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary in hiring and deploying at least 19,200 additional duty U.S. Border Patrol agents along the Southern Border;
(ii) $4,500,000,000 shall remain available for the 5-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to carry out the Comprehensive Southern Border Security Strategy;
(iii) $500,000,000 shall remain available for the 10-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to carry out programs, projects, and activities recommended by the Commission pursuant to section 4(d) to achieve and maintain the border security goals specified in section 3(b), and for the administrative expenses directly associated with convening the public hearings required by section 3(c)(2)(A) and preparing and providing summaries of such hearings required by section 3(c)(2)(B);
(iv) $5,000,000,000 shall be made available to the Secretary, during the 5-year period beginning on the date of the enactment of this Act, to procure and deploy fencing, infrastructure technology in accordance with the Southern Border Fencing Strategy established pursuant to section 5(b), not less than $7,000,000,000 of which shall be used to deploy, repair, or replace fencing;
(v) $750,000,000 shall remain available for the 6-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to expand and implement the mandatory employment verification system, which shall be used as required by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) as determined by section 3101;
(vi) $900,000,000 shall remain available for the 8-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary of State to pay for one-time and startup costs necessary to implement this Act; and
(vii) $150,000,000 shall remain available for the 2-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to transfer to the Secretary of Labor, the Secretary of Homeland Security, or the Attorney General, for initial costs of implementing this Act.
(B) REIMBURSEMENT OF FUND EXPENSES.—(i) The expenses collected pursuant to the fees, penalties, and fines referred to in clauses (i), (iii), (iv), (vi), (xiii), (xvii), and (xviii) of paragraph (2)(B) shall be collected, deposited into the general fund of the Treasury, and used for Federal budget deficit reduction. Collections in excess of $8,300,000,000 shall be deposited into the Trust Fund, as specified in paragraph (2)(B).
(C) PROGRAM IMPLEMENTATION.—Amounts deposited into the Trust Fund pursuant to paragraph (2)(B) shall be available during each of fiscal years 2014 through 2018 as follows:
(i) $150,000,000 to carry out the activities referenced in section 116(a)(1);
(ii) $50,000,000 to carry out the activities referenced in section 116(b).
(D) ONGOING FUNDING.—Subject to the availability of appropriations, amounts deposited in the Trust Fund pursuant to paragraph (2)(B) are authorized to be appropriated as follows:
(i) Such sums as may be necessary to carry out the activities included in this Act, including the costs, including pay and benefits, associated with the additional personnel required by section 1102;
(ii) Such sums as may be necessary to carry out the operations and maintenance of border security and immigration enforcement investments referenced in subparagraph (A);
(E) EXPENDITURE PLAN.—(i) The Secretary, in consultation with the Attorney General and the Secretary of Defense, shall submit to the Committee on Appropriations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives, in conjunction with the Comprehensive Southern Border Strategy and the Comprehensive Immigration Reform Act, a plan for expenditure that includes:
(ii) The number of Border Patrol agents and Customs and Border Protection officers to be hired, including a detailed description of which Border Patrol sectors and which land borders ports of entry they will be stationed;
(iii) The number and type of unmanned aerial systems and unmanned, fixed-wing and rotary aircraft, including pilots, air traffic control, and other interoperable support staff to fly or otherwise operate and maintain the vehicles;
(iv) The locations, amount, and planned deployment of fencing, including double layer fencing, tactical and other infrastructure, and technology, including but not limited to fixed towers, sensors, cameras, and other detection technology;
(v) The number, types, and planned deployment of unmanned, ground-based mobile surveillance systems;
(vi) The number, types, and planned deployment of tactical and other interoperable law enforcement communications systems and equipment;
(vii) Required construction, including repairs, expansion, and maintenance, and locations of additional checkpoints, Border Patrol stations, and forward operating bases;
(ix) The number of additional attorneys and support staff for the Office of the United States Attorney for Tucson;
(x) The number of additional support staff and interpreters in the Office of the Clerk of the Court for the District of Arizona;
(xi) The number of additional personnel, including Marshals and Deputy Marshals for the United States Marshals Office for Tucson;
(xii) The number of additional magistrate judges for the southern border United States District Courts;
(xiii) Funds to be funded by the Homeland Security Border Oversight Task Force;
(xiv) Amounts and types of grants to States and other entities;
(xv) Additional activities necessary to hire additional personnel and for start-up costs related to upgrading software and information technology necessary to transition from a voluntary E-Verify system to the mandatory employment verification system under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) within 5 years;
(xvi) The number of additional personnel and other costs associated with implementing the immigration courts and removal proceedings mandated in subchapter E of title III;
(xvii) The steps the Commissioner of Social Security plans to take to create a fraud-resistant, tamper-resistant, wear-resistant, and identity-theft resistant Social Security card, including—
(F) ANNUAL REVISION.—The expenditure plan required in (E) shall be revised and submitted with the President’s budget proposals for fiscal year 2016, 2017, 2018, and 2019 pursuant to the requirements of section 1105(a) of title 31, United States Code.
(G) COMMISSION EXPENDITURE PLAN.—(1) REQUIREMENT FOR PLAN.—If the Southern Border Security Commission referenced in section 4 is established, the Secretary shall submit to the appropriate committees of Congress, not later than 90 days after the submission of the review required by section 4(g), a plan for expenditure that achieves the recommendations in the report required by section 4(g) and the review required by section 4(g).
(ii) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In clause (1), the term “appropriate committees of Congress” means—
(I) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on the Budget of the House of Representatives;
(II) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives;
(3) LIMITATION ON COLLECTION.—(A) IN GENERAL.—No fee deposited in the Trust Fund may be collected except to the extent that the expenditure of the fee is provided for in advance in an appropriations Act only to pay the costs of activities and services for which appropriations are authorized to fund the activities authorized under this Act through (xviii).
(B) RECEIPTS COLLECTED AS OFFSETTING RECEIPTS.—Until the date of the enactment of this Act, the Secretary may collect and charge fees under this section, and the Secretary shall send to the Trust Fund any receipts collected that are in excess of the Trust Fund's cash balance.
(C) FUNDING FROM THE TRUST FUND.—The Secretary shall send to the Trust Fund any receipts collected under the authority of this Act in excess of the Trust Fund's cash balance.
(D) DEPOSITS.—There is appropriated to the Trust Account, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000,000, to remain available until expended for the purposes specified in subsection (A) of this section.
(4) COLLECTION OF FEES.—(A) IN GENERAL.—Notwithstanding section 286(m) of the Immigration and Nationality Act, $3,000,000,000,000, to remain available until expended for the purposes specified in subsection (A) of this section.
Act (8 U.S.C. 1356(m)), 50 percent of fees collected under section 245B(c)(10)(A) of the Immigration and Nationality Act, as added by section 210I of this Act, shall be deposited monthly to the General fund of the Treasury and used for Federal budget deficit reduction until the funding provided by paragraph (2) has been repaid.

(2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected in excess of the amount referenced in subparagraph (A) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)).

(3) USE OF FUNDS.—The Secretary shall use the amounts transferred to the Startup Account to pay for one-time and startup costs necessary to implement this Act, including—

(A) equipment, information technology systems, infrastructure, and human resources;

(B) outreach to the public, including development and promulgation of any regulations, rules, or other public notice;

(C) grants to community and faith-based organizations; and

(D) anti-fraud programs and actions related to implementation of this Act.

(4) OTHER.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General and the Secretary of Defense, shall submit to the Committee on Appropriations and the Committee on the Judiciary of the Senate and the Committee on Appropriations and the Committee on the Judiciary of the House of Representatives, a plan for expenditure of the one-time and startup funds in the Startup Account that provides details on—

(A) the selection of equipment, information technology systems, infrastructure, and human resources;

(B) the plans for outreach to the public, including development and promulgation of any regulations, rules, or other public notice;

(C) the types and amounts of grants to community and faith-based organizations; and

(D) the anti-fraud programs and actions related to implementation of this Act.

(5) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, the Chief Financial Officer shall conduct audits of recipients of grants under this Act. The Chief Financial Officer shall, in consultation with the Inspector General of the Department of Homeland Security, shall, in conjunction with the Inspector General of the Department of Homeland Security, conduct an audit of the Trust Fund.

(6) REPORTS.—Upon completion of each audit of the Trust Fund under paragraph (1), the Chief Financial Officer shall, in conjunction with the Inspector General, submit a report to Congress, and make available to the public on an internet website of the Department available to the public, a jointly audited financial statement concerning the Trust Fund.

(7) ELEMENTS.—Each audited financial statement under paragraph (2) shall include the following:

(A) The report of an independent certified public accountant.

(B) A balance sheet reporting admitted assets, liabilities, capital, and surplus.

(C) A statement of cash flow.

(D) Such other information on the Trust Fund as the Chief Financial Officer, the Inspector General, the Department of Homeland Security, and the Director of the National Science Foundation shall determine to be appropriate.

(8) DETERMINATION OF BUDGETARY EFFECTS.—In the Senate, amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(P) PAYMENT.—Amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency expenditure under section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–159; 2 U.S.C. 933(g)).

SEC. 7. 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 of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.),

SEC. 8. 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. 9. GRANT ACCOUNTABILITY.

(a) ELEMENTS.—In this section:

(1) AWARDING ENTITIES.—The term ‘awarding entity’ means—

(A) the Department of Homeland Security, the Director of the Federal Emergency Management Agency (FEMA), the Chief of the Office of Citizenship and New Americans, as designated by this Act and the Director of the National Science Foundation;

(B) nonprofit organizations that hold one or more contracts from the Department of Homeland Security or the National Science Foundation for grants under this Act; and

(C) governmental or profit organizations that hold one or more contracts from the Department of Homeland Security or the National Science Foundation for grants under this Act.

(2) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(3) UNRESOLVED AUDIT FINDING.—The term ‘unresolved audit finding’ means a finding in a final audit report conducted by the Inspector General for Homeland Security, or the Inspector General for the National Science Foundation for grants awarded under this Act, that has not been completed and reviewed by the Inspector General under paragraph (4).

(b) ACCOUNTABILITY.—All awards granted by awarding entities pursuant to this Act shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this section, and in each fiscal year thereafter, the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, shall conduct audits of recipients of grants under this Act. The Inspector General shall determine the appropriate number of grantees to be audited each year.

(B) REIMBURSEMENT.—If an entity is awarded grant funds under this Act that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this Act during the first 2 fiscal years beginning after the end of the 1-year period described in subsection (a)(3).

(c) DETERMINATION OF BUDGETARY EFFECTS.—In the Senate, amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(d) PAYMENT.—Amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency expenditure under section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

(2) DEPOSIT IN THE IMMIGRATION AND NATIONALITY ACT.

(3) REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.
(ii) all mandatory exclusions required under paragraph (1)(B) have been issued; and
(iii) all reimbursements required under paragraph (1)(D) have been made; and

(3) if any grant recipients excluded under paragraph (1) from the previous year.

TITLE I—BORDER SECURITY AND OTHER PROVISIONS

Subtitle A—Border Security

SEC. 1101. DEFINITIONS.

In this title:

(1) NORTHERN BORDER.—The term ‘‘Northern border’’ means the international border between the United States and Canada.

(2) RURAL, HIGH-TRAFFICKED AREAS.—The term ‘‘rural, high-trafficked areas’’ means rural areas through which drugs and undocumented aliens are routinely smuggled, as designated by the Commissioner of U.S. Customs and Border Protection.

(3) SOUTHERN BORDER.—The term ‘‘Southern border’’ means the international border between the United States and Mexico.

(4) SOUTHWEST BORDER REGION.—The term ‘‘Southwest border region’’ means the area in the United States that is within 100 miles of the Southern border.

SEC. 1102. ADDITIONAL U.S. BORDER PATROL AND CUSTOMS AND BORDER PROTECTION OFFICERS.

(a) U.S. BORDER PATROL.—Not later than September 30, 2017, the Secretary shall increase the number of trained full-time active-duty U.S. Border Patrol agents deployed to the Southern border to 38,405.

(b) CUSTOMS AND BORDER PROTECTION.—Not later than September 30, 2017, the Secretary shall increase the number of trained U.S. Customs and Border Protection officers by 5,500, compared to the number of such officers as of the date of the enactment of this Act. In allocating any new officers to international land ports of entry and high volume international airports, the primary goals shall be to increase security and reduce wait times of commercial and passenger vehicles and international land ports of entry and primary processing wait times at high volume international airports by 50 percent by fiscal year 2018 and screening all air passengers within 60 minutes under normal operating conditions or 80 percent of passengers within 30 minutes by fiscal year 2016. The Secretary shall make progress in decreasing wait times of officers during each of the fiscal years 2014 through 2017.

(c) AIR AND MARINE UNMANNED AIRCRAFT SYSTEMS.—Not later than September 30, 2015, the Secretary shall increase the number of trained U.S. Customs and Border Protection Air and Marine unmanned aircraft systems crew, marine agent, and personnel by 160 compared to the number of such officers as of the date of the enactment of this Act. The Secretary shall increase and maintain Customs and Border Protection Office of Air and Marine flight hours to 130,000 annually.

(d) CONSTRUCTION.—Nothing in subsection (a) shall be construed to preclude the Secretary from reassigning or stationing U.S. Customs and Border Protection Officers and U.S. Border Patrol Agents from the Northern border to the Southern border.

(e) FUNDING.—Section 217(b)(3)(B) (8 U.S.C. 1187(b)(3)(B)) is amended—

(1) in paragraph (1) by striking ‘‘the’’ and inserting ‘‘The’’;

(2) in clause (i), by striking ‘‘and’’ at the end;

(C) by redesignating subclause (ii) as subclause (i) and inserting the following:

‘‘(ii) $16 for border processing and;’’;

(2) in clause (ii), by striking ‘‘Amounts collected under clause (i)(II)’’ and inserting ‘‘Amounts collected under clause (i)(II) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 102(c)(1) of such Act. Amounts collected under clause (i)(II)’’; and

(3) by striking clause (ii).

(1) CORPORATIONAL PROMOTION.—Section 9(d)(2)(B) of the Travel Promotion Act of 2009 (22 U.S.C. 2131d(d)(2)(B)) is amended by striking ‘‘For each of fiscal years 2012 through 2013, and inserting ‘‘For each fiscal year after 2012.’’

(2) RECRUITMENT OF FORMER MEMBERS OF THE ARMED FORCES AND MEMBERS OF THE SERVICE COMPONENTS OF THE ARMED FORCES.

(B) STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A THREE-YEAR COMMITMENT.—Section 537(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

‘‘(4) In the case of an employee who is otherwise eligible for benefits under this section and who is serving as a full-time active-duty member of the United States Armed Forces on active duty under section 1102(b) of such Act, amounts collected under this section shall be paid to the employee.’’

(C) RECRUITMENT INCENTIVES.—(1) STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A THREE-YEAR COMMITMENT.—Section 537(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

‘‘(4) In the case of an employee who is otherwise eligible for benefits under this section and who is serving as a full-time active-duty member of the United States Armed Forces on active duty under section 1102(b) of such Act, amounts collected under this section shall be paid to the employee.’’

(2) REPORT ON RECRUITMENT INCENTIVES.—(A) STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A THREE-YEAR COMMITMENT.—Section 537(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

‘‘(4) In the case of an employee who is otherwise eligible for benefits under this section and who is serving as a full-time active-duty member of the United States Armed Forces on active duty under section 1102(b) of such Act, amounts collected under this section shall be paid to the employee.’’

(D) STUDENT LOAN REPAYMENTS FOR UNITED STATES CUSTOMS AND BORDER PROTECTION OFFICERS WITH A THREE-YEAR COMMITMENT.—Section 537(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

‘‘(4) In the case of an employee who is otherwise eligible for benefits under this section and who is serving as a full-time active-duty member of the United States Armed Forces on active duty under section 1102(b) of such Act, amounts collected under this section shall be paid to the employee.’’

(3) REPORT ON RECRUITMENT INCENTIVES.—(A) STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A THREE-YEAR COMMITMENT.—Section 537(b) of title 5, United States Code, is amended by adding at the end the following new paragraph:

‘‘(4) In the case of an employee who is otherwise eligible for benefits under this section and who is serving as a full-time active-duty member of the United States Armed Forces on active duty under section 1102(b) of such Act, amounts collected under this section shall be paid to the employee.’’

(2) REPORT.—Prior to the hiring and training of additional U.S. Customs and Border Protection officers under subsection (a), the Secretary shall submit to Congress a report on current wait times at land, air, and sea ports of entry; officer strength; air and sea ports of entry and projections for new officer allocation at land, air, and sea ports of entry designed to implement subsection (a), including funding for non-law enforcement personnel for administrative duties.

SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER.

(a) IN GENERAL.—With the approval of the Secretary of Defense, the Governor of a State may order any unit or personnel of the National Guard of such State to perform operations and missions specified in this section and missions specified in section 536(f) of title 32, United States Code, in the Southwest border region for the purposes of assisting U.S. Customs and Border Protection in securing the Southern border.

(b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—The Secretary of Homeland Security and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report including an assessment of the desirability and feasibility of deploying National Guard personnel and assigning National Guard units and personnel deployed under subsection (a) to perform operations and missions assigned under subsection (b) to include the temporary authority—

(1) to construct checkpoints, including double-layer and triple-layer fencing;

(2) to increase ground-based mobile surveillance systems;

(3) to deploy additional unmanned aerial systems and manned aircraft sufficient to maintain continuous surveillance of the Southern border;

(4) to deploy and provide capability for radio communication and information exchange between U.S. Customs and Border Protection and State, local, and tribal law enforcement agencies;

(5) to construct checkpoints along the Southern border to bridge the gap to long-term permanent checkpoints; and

(6) to provide assistance to U.S. Customs and Border Protection, particularly in rural, high-trafficked areas, as designated by the Commissioner of U.S. Customs and Border Protection.

(c) NATIONAL GUARD SUPPORT TO PROVIDE PROFESSIONAL AND LOGISTICAL SUPPORT.—The Secretary of Defense shall deploy National Guard personnel and equipment to provide logistical support for the National Guard under this section.

(d) EXCLUSION FROM NATIONAL GUARD PERSONNEL LIMITATIONS.—National Guard personnel deployed under subsection (a) shall not be included in—

(1) the calculation to determine compliances with limits on end strength for National Guard personnel; or

(2) limits on the number of National Guard personnel that may be placed on active duty for an operational support period under section 115 of title 10, United States Code.

SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY OPERATIONS.

(a) BORDER CROSSINGS.—

(1) IN GENERAL.—From the amounts made available pursuant to the appropriations in
paragraph (3), funds shall be made available—

(A) to increase the number of border crossing prosecutions in the Tucson Sector of the Southern border region to up to 210 prosecutions per day through increasing funding available for—

(i) attorneys and administrative support staff at the United States Attorney's Office for Tucson;

(ii) support staff and interpreters in the Office of the Clerk of the Court for Tucson;

(iii) training activities;

(iv) activities of the Federal Public Defender Office for Tucson; and

(v) additional personnel, including Deputies United States Marshals in the United States Marshals Office for Tucson to perform intake, coordination, transportation, and court security; and

(B) reimburse Federal, State, local, and tribal law enforcement agencies for any detention costs related to the border crossing prosecutions carried out pursuant to subparagraph (A).

(2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief judge of the United States District Court for the District of Arizona is authorized to appoint additional full-time magistrate judges, who, consistent with the Constitution and laws of the United States, shall have the authority to issue warrants to enforce the law in the judicial district in which the respective judges are appointed.

(3) FUNDING.—There are authorized to be appropriated from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this subsection.

(b) OPERATION STONEGARDEN.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall enhance law enforcement preparedness and operational readiness along the borders of the United States through Operation Stonegarden. The amounts available under this paragraph are in addition to any other amounts otherwise made available for Operation Stonegarden. Grants under this subsection shall be allocated based on sector-specific border risk methodology, based on factors including threat, vulnerability, miles of border, and other border-specific information. Allocations for grants and reimbursements to law enforcement agencies under this paragraph shall be made by the Federal Emergency Management Agency through a competitive process.

(2) FUNDING.—There are authorized to be appropriated, from the amounts made available under section 6(a)(3)(A)(i), such sums as may be necessary to carry out this subsection.

(c) INFRASTRUCTURE IMPROVEMENTS.—

(1) BORDER PATROL STATIONS.—The Secretary shall—

(A) construct additional Border Patrol stations in the Southwest border region that U.S. Border Patrol determines are needed to provide full operational support in rural, high-trafficked areas; and

(B) analyze the feasibility of creating additional Border Patrol sectors along the Southern border to interrupt drug trafficking operations.

(2) FORWARD OPERATING BASES.—The Secretary shall enhance the security of the Southwest border region by—

(A) establishing additional permanent forward operating bases for the U.S. Border Patrol, as needed;

(B) upgrading the existing forward operating bases to include modular buildings, electronic surveillance, and interdiction capabilities; and

(C) ensuring that forward operating bases surveil and interdict individuals entering the United States unlawfully immediately after such individuals cross the Southern border.

(d) SAFE AND SECURE BORDER INFRASTRUCTURE.—The Secretary and the Secretary of Transportation, in consultation with the governors of the States in the Southwest border region and the Northern border region, shall establish a grant program, which shall be authorized by the Secretary of Transportation and the General Services Administration, to construct transportation and supporting infrastructure improvements at the Southern border, including gateways necessary to facilitate safe, secure, and efficient cross border movement of people, motor vehicles, and cargo.

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2014 through 2018 such sums as may be necessary to carry out this subsection.

(2) ADDITIONAL PERMANENT DISTRICT COURT JUDGES IN SOUTHWEST BORDER STATES.

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 2 additional district judges for the district of Arizona;

(B) 3 additional district judges for the eastern district of California;

(C) 2 additional district judges for the western district of Texas; and

(D) 1 additional district judge for the southern district of Texas.

(2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The existing judgeships for the district of Arizona and the central district of California authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note; Public Law 107–273; 116 Stat. 1788), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to Arizona and inserting the following:

‘‘Arizona ... 15’’;

(B) by striking the item relating to California and inserting the following:

‘‘California:

—Northern .......................................................... 14
—Eastern ............................................................ 9
—Central ............................................................ 7
—Southern .......................................................... 28’’;

and

‘‘by striking the item relating to Texas and inserting the following:

‘‘Texas:

—Northern .......................................................... 12
—Southern .......................................................... 20
—Eastern ............................................................ 7
—Western ........................................................... 15’’;

(4) INCREASE IN FILING FEES.—

(A) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended by striking ‘‘$350’’ and inserting ‘‘$360’’.

(B) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enactment of this paragraph shall be deposited as offsetting receipts in the ‘‘Judiciary Filing Fee’’ special fund of the Treasury established under section 1931 of title 28, United States Code, and shall be available solely for the purpose of facilitating the processing of civil cases, but only to the extent specifically appropriated by an Act of Congress enacted after the date of the enactment of this Act.

(5) WHISTLEBLOWER PROTECTION.—

(A) IN GENERAL.—No officer, employee, agent, contractor, or subcontractor of the judicial branch may discharge, demote, threaten, suspend, harass, or in any other manner retaliate against a Federal, State, local, or tribal employee, or any other employee in the judicial branch, which employee assisted in an investigation regarding any possible violation of Federal law or regulation, or misconduct, by a judge, justice, or any other employee in the judicial branch, which employee assisted in an investigation of the possible violation or misconduct.

(B) CIVIL ACTION.—An employee injured by a violation of subsection (A) in a civil action, obtain appropriate relief.

SEC. 1105. BORDER SECURITY ON CERTAIN FEDERAL LANDS.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LANDS.—The term ‘‘Federal lands’’ includes all land under the control of the Secretary concerned that is located within the Southwest border region in the State of Arizona along the international border between the United States and Mexico.

(2) SECRETARY CONCERNED.—The term ‘‘Secretary concerned’’ means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—To achieve effective control of Federal lands—

(1) the Secretary concerned, notwithstanding any other provision of law, shall operate and provide Border Patrol Protection personnel with immediate access to Federal lands for security activities, including—

(A) routine motorized patrols; and

(B) the deployment of communications, surveillance, and detection equipment;

(2) the security activities described in paragraph (1) shall be conducted, to the maximum extent practicable, in a manner that the Secretary determines will best protect the natural and cultural resources on Federal lands; and

(3) the Secretary concerned may provide education and training to U.S. Customs and Border Protection personnel on the natural and cultural resources present on individual Federal land units.

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—

(1) IN GENERAL.—After implementing subsection (b), the Secretary, in consultation with the Secretary concerned, shall prepare and publish in the Federal Register a notice of intent to prepare a programmatic environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to analyze the impact of the activities described in subsection (b).

(2) EFFECT ON PROCESSING APPLICATION AND SPECIAL USE PERMITS.—The pending completion of a programmatic environmental impact statement under this section shall not result in any delay in the processing or approval of applications or special use permits by the Secretary concerned for the activities described in subsection (b).

(3) AMENDMENT OF LAND USE PLANS.—The Secretary concerned shall amend any land use plan or program, as appropriate, upon completion of the programmatic environmental impact statement described in subsection (b).

(4) SCOPE OF PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—The programmatic environmental impact statement described in paragraph (1)—
(A) may be used to advise the Secretary on the impact on natural and cultural resources on Federal lands; and
(B) shall not control, delay, or restrict actions necessary to achieve effective control on Federal lands.
(d) INTERMINGLED STATE AND PRIVATE LAND.—This section shall not apply to any privately-owned land within the boundaries of Federal lands.

SEC. 1106. EQUIPMENT AND TECHNOLOGY.

(a) ENHANCEMENTS.—The Commissioner of U.S. Customs and Border Protection, working through U.S. Border Patrol, shall—
(1) deploy additional mobile, video, and agent-portable surveillance systems, and unarmored aerial vehicles in the Southwest border region as necessary to provide 24-hour operation and surveillance;
(2) operate unmanned aerial vehicles along the Southern border for 24 hours per day and for 7 days per week;
(3) deploy unmanned additional fixed-wing aircraft and helicopters along the Southern border;
(4) acquire new rotorcraft and make upgrades to the existing helicopter fleet;
(5) increase horse patrols in the Southwest border region;
(6) acquire and deploy watercraft and other equipment to provide support for border-related maritime anti-crime activities.

(b) ELIGIBILITY.—
(1) IN GENERAL.—Notwithstanding paragraphs (1) and (2) of subsection (a), and except as provided in paragraph (2), U.S. Border Patrol may not operate unmanned, unarmored aerial vehicles in the San Diego and El Centro Sectors, except within 3 miles of the Southern border.
(2) EXCEPT.—The limitation under this subsection shall not restrict the maritime operations of U.S. Customs and Border Protection.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to carry out subsection (a) during fiscal years 2014 through 2018.

SEC. 1107. ACCESS TO EMERGENCY PERSONNEL.

(A) SOUTHWEST BORDER REGION EMERGENCY COMMUNICATIONS GRANTS.—
(1) IN GENERAL.—The Secretary, in consultation with the governors of the States in the Southwest border region, shall establish a 2-year grant program, to be administered by the Secretary, to improve emergency communications in the Southwest border region.
(2) ELIGIBILITY FOR GRANTS.—An individual is eligible to receive a grant under this subsection if the individual demonstrates that he or she—
(A) regularly resides or works in the Southwest border region;
(B) is at greater risk of border violence due to the nature of his or her service at his or her residence or business and his or her proximity to the Southern border.
(3) USE OF GRANTS.—Grants awarded under this subsection may be used to purchase satellite telephone communications systems and service that—
(A) can provide access to 9-1-1 service; and
(B) are equipped with global positioning systems.

(4) AUTHORIZATION OF APPROPRIATIONS.—
There is authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to carry out the grant program established under this subsection.

(b) INTRAREPUBLICAN COMMUNICATIONS FOR LAW ENFORCEMENT PERSONNEL.—There are authorized to be appropriated to the Department of Justice, the Department of the Interior, and the Department of Homeland Security for the 5-year period beginning on the date of enactment of this Act such sums as may be necessary to—
(1) enhance the communications network for the Department of Justice to ensure coverage and capacity, particularly when immediate access is needed in times of crisis, in the Southwest border region for appropriate law enforcement personnel of the Department of Justice (including the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives), the Department (including U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection), the United States Marshals Service, other Federal agencies, the State of Arizona, tribes, and local governments.

(c) STATE AND LOCAL LAW ENFORCEMENT.—
(A) AUTHORIZATION OF APPROPRIATIONS.—
There is authorized to be appropriated to the Department of Justice during the 5-year period beginning on the date of enactment of this Act, such sums as may be necessary to purchase, through a competitive procurement process, law enforcement agents of the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department (including U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection), the United States Marshals Service, other Federal agencies, the State of Arizona, tribes, and local governments.
(B) AUTHORIZATION OF APPROPRIATIONS.—
There is authorized to be appropriated to U.S. Customs and Border Protection such sums as may be necessary to—
(1) detect border tunnels;
(2) detect the use of ultralight aircraft;
(3) enhance wide aerial surveillance; and
(4) otherwise improve the enforcement of such border.

SEC. 1110. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) SCAAP.—
(2) Identification and removal cooperation.—
(B) the Attorney General shall reimburse State, county, tribal, and local governments for costs associated with the prosecution, detention, and arrest of unaccompanied alien children and inadmissible alien children.

(b) SCAAP for States.—
(1) ASSISTANCE FOR STATES INCARCERATING UNDOCUMENTED ALIENS.—
Section 241(i)(10) (8 U.S.C. 1231(i)(10)) is amended by striking “’1986’” and inserting “’1996’.”
(2) Assistance for States Incarcerating Unverified Aliens.—
Section 241(i)(10) (8 U.S.C. 1231(i)(10)), as amended by subsection (a), is further amended—
(A) by redesignating paragraphs (4), (5), and (6), as paragraphs (5), (6), and (7), respectively;
(B) in paragraph (7), as so redesignated, by striking “5)” and inserting “6)”;
(C) by adding after paragraph (3) the following:
“6. In the case of an alien whose immigration status is unable to be verified by the Secretary of Homeland Security, and who would otherwise be an undocumented criminal alien if the alien is unlawfully present in the United States, the Attorney General may designate an alien, if the case is approved by the Secretary of Homeland Security, to be removed from the United States.”

SEC. 1111. USE OF FORCE.

Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Assistant Attorney General for the Civil Rights Division of the Department of Justice, shall issue policies governing the use of force by all Department personnel that—
(1) require all Department personnel to report each use of force; and
(2) establish procedures for—
(A) accepting and investigating complaints regarding the use of force by Department personnel;
(B) disciplining Department personnel who violate any law or Department policy relating to the use of force; and
SEC. 1112. TRAINING FOR BORDER SECURITY AND IMMIGRATION ENFORCEMENT PERSONNEL

(a) IN GENERAL.—The Secretary shall ensure that U.S. Customs and Border Protection, and any Federal agents, U.S. Immigration and Customs Enforcement officers and agents, United States Air and Marine Division agents, and agriculture specialists stationed within 100 miles of any land or marine border of the United States or at any United States port of entry receive appropriate training, which shall be prepared in collaboration with the Assistant Attorney General for the Civil Rights Division of the Department of Justice, in—

(1) identifying and detecting fraudulent travel documents;

(2) civil, constitutional, human, and privacy rights of individuals;

(3) the scope of enforcement authorities, including interrogations, stops, searches, seizures, arrests, and detentions;

(4) the use of force policies issued by the Secretary pursuant to section 1111;

(5) immigration law, including screening, identifying, and addressing vulnerable populations, such as children, victims of crime and human trafficking, and individuals fleeing persecution;

(6) social and cultural sensitivity toward border communities;

(7) the impact of border operations on communities and the environment;

(8) any particular environmental concerns in a particular area.

(b) DUTIES.—The Director for Border Community Liaison Officers.—The Secretary shall ensure that border communities liaison officers in Border Patrol sectors along the international borders between the United States and Mexico and between the United States and Canada receive training to better—

(1) act as a liaison between border communities and the Office for Civil Rights and Civil Liberties of the Department and the Civil Rights Division of the Department of Justice;

(2) foster and institutionalize consultation with border communities;

(3) consult with border communities on Department programs, policies, strategies, and directives;

(4) receive Department performance assessments from border communities;

(c) HUMAN CONDITIONS OF CONFINEMENT FOR CHILDREN IN U.S. CUSTOMS AND BORDER PROTECTION CUSTODY.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish standards to ensure that children in the custody of U.S. Customs and Border Protection—

(1) are afforded adequate medical and mental health care, including emergency medical and mental health services, when necessary;

(2) receive adequate nutrition;

(3) are provided with climate-appropriate clothing, footwear, and bedding;

(4) have basic personal hygiene and sanitary products; and

(5) are permitted to make supervised phone calls to family members.

sec. 1113. DEPARTMENT OF HOMELAND SECURITY BORDER OVERSIGHT TASK FORCE

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an independent task force, which shall be known as the Department of Homeland Security Border Oversight Task Force (referred to in this section as the ‘‘DHS Task Force’’).

(2) DUTIES.—The DHS Task Force shall—

(A) review and make recommendations regarding immigration and border enforcement policies, strategies, and programs that take into consideration their impact on border and tribal communities;

(B) recommend ways in which the Border Communities Liaison Offices can strengthen relations and collaboration between communities in the United States, Mexico, and Canada receive training to better—

(i) improve the capacity of the Department and the Department of Justice, other Federal agencies that carry out such policies, strategies, and programs;

(ii) demonstrate the need for changes in the use of force policies issued by the Secretary pursuant to section 1111;

(iii) consult with border communities on Department programs, policies, strategies, and programs of U.S. Customs and Border Protection, and U.S. Immigration and Customs Enforcement;

(C) evaluate the impact of immigration policies, strategies, and programs of Federal agencies operating along the international borders between the United States and Mexico, and between the United States and Canada protect the due process, civil, and human rights of border residents, visitors, and migrants at and near such borders;

(D) develop and make recommendations regarding the training of border enforcement personnel described in section 1112.

(b) MEMBERSHIP.—

(A) IN GENERAL.—The DHS Task Force shall be composed of 33 members, appointed by the President, who have expertise in immigration, civil rights, or other pertinent experience, of whom—

(i) 14 members shall be from the Northern border region and shall include—

(I) 2 local government elected officials; (II) 2 local law enforcement officials; (III) 2 tribal government officials; (IV) 2 civil rights advocates; (V) 1 business representative; (VI) 1 higher education representative; (VII) 1 private land owner representative; (VIII) 1 representative of a faith community; (IX) 2 representatives of U.S. Border Patrol; and

(ii) 19 members shall be from the Southern border region and include—

(I) 3 local government elected officials; (II) 3 local law enforcement officials; (aa) (III) 2 tribal government officials; (IV) 3 civil rights advocates; (V) 2 business representatives; (VI) 1 higher education representative; (VII) 2 private land owner representatives; (VIII) 1 representative of a faith community; and (IX) 2 representatives of U.S. Border Patrol.

(b) TER M OF SERVICE.—Members of the Task Force shall be appointed for the shorter of—

(1) 3 years; or

(ii) the life of the DHS Task Force.

(c) CHAIR, VICE CHAIR.—The members of the DHS Task Force shall elect a Chair and a Vice Chair from among its members, who shall serve in such capacities for the life of the DHS Task Force or until removed by the majority vote of at least 16 members.

(b) OPERATIONS.—

(1) HEARINGS.—The DHS Task Force may, for the purpose of carrying out its duties, hold hearings, sit and act, take testimony, receive evidence, and administer oaths.

(2) RECOMMENDATIONS.—The DHS Task Force may make findings or recommendations to the Secretary related to the duties described in subsection (a)(2).

(c) RESPONSIBILITY.—Not later than 180 days after receiving the findings and recommendations from the DHS Task Force, the Secretary shall issue a response that describes how the Department has addressed, or will address, such findings and recommendations. If the Secretary, with any finding of the DHS Task Force, the Secretary shall provide an explanation for the disagreement.

SEC. 1114. OMBUDSMAN FOR IMMIGRATION RELATED CONCERNS OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ESTABLISHMENT.—Title I of the Homeland Security Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding at the end the following new section:

"SEC. 104. OMBUDSMAN FOR IMMIGRATION RELATED CONCERNS OF THE DEPARTMENT OF HOMELAND SECURITY.

"(a) ESTABLISHMENT.—Title I of the Homeland Security Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding at the end the following new section:

"(b) FUNCTIONS.—The functions of the Ombudsman shall be as follows:

(1) To receive and resolve complaints from individuals and employers and assist in resolving problems with the immigration components of the Department.

(2) To conduct inspections of the facilities or contract facilities of the immigration components of the Department.

(3) To assist individuals and families who have been the victims of crimes committed by aliens or violence near the United States border.

(b) PROCEDURES.—In addition to the functions specified in subsection (b), the Ombudsman shall—

"(c) OTHER RESPONSIBILITIES.—In addition to the functions specified in subsection (b), the Ombudsman shall—
“(1) monitor the coverage and geographic allocation of local offices of the Ombudsman, including appointing a local ombudsman for immigration related concerns; and

“(2) evaluate personnel actions (including dismissal) with respect to any employee of the Ombudsman.

“(d) REQUEST FOR INVESTIGATIONS.—The Ombudsman shall have the authority to request the Inspector General of the Department of Homeland Security to conduct investigations, inspections, and audits.

“(e) REGULATIONS.—With DEPARTMENT COMPONENTS.—The Director of U.S. Citizenship and Immigration Services, the Assistant Secretary for Field Operations and Customs Enforcement, and the Commissioner of Customs and Border Protection shall each establish procedures to provide formal responses to recommendations submitted to such official by the Ombudsman.

“(f) ANNUAL REPORTS.—Not later than June 30 of each year, the Ombudsman 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 objectives of the Ombudsman for the fiscal year beginning in such calendar year. Each report shall contain full and substantive analysis, in addition to statistical information. The Ombudsman shall set forth any recommendations the Ombudsman has made on improving the services and responsiveness of U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, and U.S. Customs and Border Protection and any responses received from the Department regarding such recommendations.

“(g) CLERICAL AMENDMENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 272) is repealed.

“(h) ANNUAL REPORT ON THE IMPACT OF MIGRATION DETERRENCE PROGRAMS AT THE BORDER.—

(1) REQUIREMENT FOR ANNUAL REPORT.—Not later than 1 year after the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that describes the impact of migration deterrence programs on public interest factors, including those described in this Act; and

(2) require border enforcement personnel to incorporate in their training on best practices and changes in relevant legal authorities, policies, and procedures relevant to the preservation of a child’s best interest, family unity, and other public interest factors, including those described in this Act.

(3) CHILD.—Except as otherwise specifically provided, the term “child” has the meaning given to the term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(4) COOPERATING ENTITY.—The term “cooperating entity” means a State or local entity acting pursuant to an agreement with the Secretary.

(5) MIGRATION DETERRENCE PROGRAM.—The term “migration deterrence program” means an action related to the repatriation or referral of 1 or more apprehended individuals for a suspected or confirmed violation of the Immigration and Nationality Act (8 U.S.C. 101 et seq.) by the Secretary or cooperating entity.

(6) PROCEDURES FOR MIGRATION DETERRENCE PROGRAMS AT THE BORDER.—

(1) PROCEDURES.—In any migration deterrence program carried out at a border, the Secretary and cooperating entities shall for each apprehended individual—

(A) as soon as practicable after such individual’s apprehension—

(i) inquire as to whether the apprehended individual is—

(I) a parent, legal guardian, or primary caregiver of a child; or

(II) traveling with a spouse or child; and

(2) ascertain whether repatriation of the apprehended individual presents any humanitarian concern or concern related to such individual’s physical safety; and

(B) ensure that, with respect to a decision related to the repatriation or referral for prosecution of the apprehended individual, due consideration is given—

(i) to the best interests of such individual’s child, if an apprehended individual traveling with a spouse or child;

(ii) to family unity whenever possible; and

(iii) to other public interest factors, including humanitarian concerns and concerns related to the apprehended individual’s physical safety.

(c) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services, the Attorney General, the Secretary of State, and independent immigration, child welfare, family law, and human rights organizations, (1) develop and provide specialized training for all personnel of U.S. Customs and Border Protection and cooperating entities who come into contact with apprehended individuals in all legal authorities, policies, and procedures relevant to the preservation of a child’s best interest, family unity, and other public interest factors, including those described in this Act; and

(2) require border enforcement personnel to undertake periodic and continuing training on best practices and changes in relevant legal authorities, policies, and procedures pertaining to the preservation of a child’s best interest, family unity, and other public interest factors, including those described in this Act.

(3) as subparagraphs (A) through (C), respectively.

(SECTION 1116. OVERSIGHT OF POWER TO ENTER PRIVATE LAND AND STOP VEHICLES WITHIN 10 MILES FROM THE UNITED STATES BORDER.)

(1)(D) may be exercised, if the Secretary certifies that such a distance is necessary for the purpose of preventing the illegal entry of aliens into the United States; and

(2) by redesigning paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by redesigning paragraphs (4) and (5) as subparagraphs (D) and (E), respectively;

(4) in the matter preceding subparagraph (A), as so redesignated—

(A) by inserting “(1)” before “Authority”;

(B) by inserting “by striking” and inserting “Department of Homeland Security”; and

(C) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(5) as so redesignated, by inserting the following at the beginning: “except as provided in subparagraphs (D) and (E),”

(6) by inserting after paragraph (1)(C)

“(D) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 25 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;”;

“(E) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 10 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;”; and

“(F) by inserting after the flush text at the end of paragraph (1)(C) as so redesignated, the following:

“(2) by redesigning paragraphs (1) through (5) as subparagraphs (A) through (E), respectively.

“(3) as subparagraphs (A) through (E), respectively.

“(4) by inserting “by striking” and inserting “Department of Homeland Security”; and

“(5) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(3) as subparagraphs (A) through (E), respectively.

(4) as so redesignated, by inserting the following at the beginning: “except as provided in subparagraphs (D) and (E),”

(5) by inserting after paragraph (1)(C)

“(D) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 25 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;”;

“(E) with respect to the Northern border, as defined in section 1101 of the Border Security, Economic Opportunity, and Immigration Enforcement Act, within a distance of 10 air miles from the Northern border, or such distance from the Northern border as may be prescribed by the Secretary pursuant to paragraph (2) of this subsection, to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;”; and

“(F) by inserting after the flush text at the end of paragraph (1)(C) as so redesignated, the following:

“(2) by redesigning paragraphs (1) through (5) as subparagraphs (A) through (E), respectively.

“(3) as subparagraphs (A) through (E), respectively.

“(4) by inserting “by striking” and inserting “Department of Homeland Security”; and

“(5) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(3) as subparagraphs (A) through (E), respectively.

(4) as so redesignated, by inserting the following at the beginning: “except as provided in subparagraphs (D) and (E),”

(5) by inserting after paragraph (1)(C)
"(C) A certification made under subparagraph (A) shall be valid for a period of 5 years and may be renewed for additional 5-year periods. If the Secretary finds at any time that the conditions no longer justify a certification, the Secretary shall terminate the certification.

"(D) The Secretary shall report annually to the Committee on the Judiciary and Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on the Judiciary and Committee on Homeland Security of the House of Representatives the number of certifications made under subparagraph (A), and for each such certification, the Northern border sector or district and reasonable distance preceding the period of time the certification has been in effect, and the factors justifying the certification.

"(E) Technical and conforming amendments—

(1) Authorities without a warrant.—In section 287(a) (8 U.S.C. 1357(a)), the undesignated matter following paragraph (2), as added by subsection (a)(5), is amended—

(A) by inserting ‘‘(3)’’ before ‘‘Under regulations’’;

(B) by striking ‘‘paragraph (5)(B)’’ both places that term appears and inserting ‘‘paragraph (5)(F)’’;

(C) by striking ‘‘(i)’’ and inserting ‘‘(A)’’;

(D) by striking ‘‘(ii)’’ and inserting ‘‘(B) establish’’;

(E) by striking ‘‘(viii)’’ and inserting ‘‘(C) establish’’; and

(F) by striking ‘‘clause (i), and (iv)’’ and inserting ‘‘subparagraph (B), and (D)’’.

(2) Conforming amendment.—Section 287(e) (8 U.S.C. 1357(e)) is amended by striking ‘‘paragraph (3) of subsection (a),’’ and inserting ‘‘subsection (a)(1)(D).’’

SEC. 1117. REPORTS.

(a) In General.—Not later than the date of the enactment of this Act, the Secretary shall not—

(1) establish, collect, or otherwise impose any new border crossing fee on individuals crossing the Southern border or the Northern border at a land port of entry; or

(2) conduct any study relating to the imposition of a border crossing fee.

(b) Border Crossing Fee Defined.—In this section, the term ‘‘border crossing fee’’ means a fee that every pedestrian, cyclist, and motor vehicle operator, including the driver therein, is required to pay for the privilege of crossing the Southern border or the Northern border at a land port of entry.

SEC. 1118. SEVERABILITY AND DELEGATION.

(a) Severability.—If any provision of this Act or an amendment made by this Act and the application of any such provision or amendment to any person or circumstance, is held unconstitutional, the remainder of this Act and the amendments to any other provisions of this Act and the amendments made by this Act and the application of any such provision or amendment to any person or circumstance shall not be affected.

(b) Delegation.—The Secretary may delegate any authority provided to the Secretary under this Act or an amendment made by this Act to the Attorney General, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of State, or the Commissioner of Social Security.

SEC. 1119. PROHIBITION ON NEW LAND BORDER CROSSING FEES.

(a) In General.—Not later than the date of the enactment of this Act, the Secretary shall not—

(1) establish, collect, or otherwise impose any new border crossing fee on individuals crossing the Southern border or the Northern border at a land port of entry; or

(2) conduct any study relating to the imposition of a border crossing fee.

(b) Border Crossing Fee Defined.—In this section, the term ‘‘border crossing fee’’ means a fee that every pedestrian, cyclist, and motor vehicle operator, including the driver therein, is required to pay for the privilege of crossing the Southern border or the Northern border at a land port of entry.

SEC. 1120. HUMAN TRAFFICKING REPORTING.

(a) Short Title.—This section may be cited as the ‘‘Human Trafficking Reporting Act of 2013.’’

(b) Findings.—Congress finds the following:

(1) Human trafficking is a form of modern-day slavery.

(2) According to the Trafficking Victims Protection Act of 2000 ‘‘severe forms of trafficking in persons’’ means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) There is an acute need for better data collection of incidents of human trafficking across the United States in order to effectively combat severe forms of trafficking in persons.

(4) The State Department’s 2012 Trafficking in Persons report found that—

(A) the United States is a ‘‘source, transit and destination country for men, women, and children subjected to forced labor, debt bondage, domestic servitude and sex trafficking,’’; and

(B) the United States needs to ‘‘improve data collection and reporting on human trafficking cases at the federal, state and local levels’’.

(5) The International Organization for Migration has reported that in order to effectively combat severe forms of trafficking in persons it is essential that the following barriers for data collection exist:

(A) The illicit and underground nature of human trafficking.

(B) The reluctance of victims to share information with authorities.

(C) Insufficient performance of trafficking data collection and research efforts by governments worldwide.

(6) A 2009 report to the Department of Health and Human Services entitled Human Trafficking Into and Within the United States: A Review of the Literature found that ‘‘available data and methodologies for estimating the prevalence of human trafficking globally and nationally are not well developed, and therefore estimates have varied widely and changed over time’’.

(7) The Federal Bureau of Investigation compiles national crime statistics through the Uniform Crime Reporting Program.

(8) Under current law, methodologies of law enforcement agencies, including data on averages and peaks, for crossing the Northern border and the Southern border; and

including data on averages and peaks, for crossing the Northern border and the Southern border; and

(9) The addition of severe forms of trafficking in persons to the definition of part 1 violent crimes will ensure that statistics on this heinous crime will be compiled and available through the Federal Bureau of Investigation’s Uniform Crime Report.

(c) Human Trafficking To Be Included in Part 1 Violent Crimes for Purposes of Byrne Grants.—Section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following new subsection:

‘‘(1) PART 1 VIOLENT CRIMES TO INCLUDE HUMAN TRAFFICKING.—For purposes of this section, the term ‘part 1 violent crimes’ shall include severe forms of trafficking in persons, as defined in section 103(b)(8) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(b)).’’

SEC. 1121. RULE OF CONSTRUCTION.

Nothing in this Act may be construed to authorize the deployment, procurement, or construction of fencing along the Northern border.

SEC. 1122. LIMITATIONS ON DANGEROUS DEPORTATION PRACTICES.

(a) Certification Required.—

(1) In General.—Not later than 1 year after the date of the enactment of this Act, and every 180 days thereafter, the Secretary, except as provided in paragraph (2), shall submit written certification to Congress that the Department has only deported or otherwise removed a migrant from the United States through an entry or exit point on the Southern border during daylight hours.

(2) Exception.—The certification required under paragraph (1) shall not apply to the deportation or removal of a migrant otherwise described in that paragraph if—

(A) the manner of the deportation or removal is justified by a compelling governmental interest;

(B) the manner of the deportation or removal is in accordance with an applicable Local Arrangement for the Removal of Mexican Nationals entered into by the appropriate Mexican Consulate; or

(C) the migrant is not an unaccompanied minor and the migrant—

(i) is deported or removed through an entry or exit point in the same sector as the place where the migrant was apprehended; or

(ii) agrees to be deported or removed in such manner after being notified of the intended manner of deportation or removal.

(b) Additional Information Required.—

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a study of the Alien Transfer Exit Program, which shall include—

(1) a specific local or southern border area where lateral repatriations have occurred during the 1-year period preceding the submission of the study;

(2) the performance measures developed by U.S. Customs and Border Protection to determine if the Alien Transfer Exit Program
SEC. 1202. VISA OVERSTAY NOTIFICATION PILOT PROGRAM.

(a) Establishment of Pilot Program.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a pilot program to explore the feasibility and effectiveness of notifying individuals who have traveled to the United States from a foreign nation that the terms of their admission to the United States have expired, including individuals that entered with a visa or through the visa waiver program.

(b) Requirements.—In establishing the pilot program required under subsection (a), the Secretary shall—

(1) provide for the collection of contact information, including telephone numbers and email addresses, as appropriate, of individuals traveling to the United States from a foreign nation; and

(2) randomly select a pool of participants in order to form a statistically significant sample of people who travel to the United States from a country of origin by telephone, email, or other electronic means that the terms of their admission to the United States have expired.

(c) Report.—Not later than 1 year after the date on which the Secretary establishes the pilot program under subsection (a), the Secretary shall submit to Congress a report on whether the telephone or email notifications have a statistically significant effect on reducing the rates of visa overstays in the United States.

SEC. 1203. PREVENTING UNAUTHORIZED IMMIGRATION TRANSITING THROUGH MEXICO.

(a) In General.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall develop, in consultation with the relevant Committees of Congress, a strategy to address the unauthorized immigration of individuals who transit through Mexico to the United States.

(b) Requirements.—The strategy developed under subsection (a) shall include specific steps—

(1) to enhance the training, resources, and professionalism of border and law enforcement officials in Mexico, Honduras, El Salvador, Guatemala, and other countries, as appropriate; and

(2) to educate nationals of the countries described in paragraph (1) about the perils of the journey to the United States, including how this Act will increase the likelihood of apprehension, increase criminal penalties associated with illegal entry, and make finding employment in the United States more difficult.

(c) IMPLEMENTATION OF STRATEGY.—In carrying out the strategy developed under subsection (a)—

(1) the Secretary of Homeland Security, in conjunction with the Secretary of State, shall produce an educational campaign and disseminate the information about the perils of the journey across Mexico, the likelihood of apprehension, and the difficulty of finding employment in the United States; and

(2) the Secretary of State, in coordination with the Secretary of Homeland Security, shall offer—

(A) training to border and law enforcement officials to enable those officials to operate more effectively, by using, to the greatest extent practicable, Department of Homeland Security personnel to conduct the training; and

(B) technical assistance and equipment to border officials, including computers, documentation, and other forms of technology that may be needed, as appropriate.

(d) AVAILABILITY OF FUNDS.—The Secretary of Homeland Security may use such sums as are necessary from the Comprehensive Immigration Trust Fund established under section 6(a)(1) to carry out this section.

TITLE II—IMMIGRANT VISAS

Subtitle A—Registration and Adjustment of Registered Provisional Immigrants

SEC. 2101. REGISTERED PROVISIONAL IMMIGRATION TRANSITING THROUGH MEXICO.

(a) Authorization.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

"SEC. 245B. ADJUSTMENT OF STATUS OF ELIGIBLE ENTERED BEFORE DECEMBER 31, 2011, TO THAT OF REGISTERED PROVISIONAL IMMIGRANT.

"(a) In General.—Notwithstanding any other provision of law, the Secretary of Homeland Security (referred to in this section and in sections 245C through 245F as the ‘Secretary’) shall have the authority to condition upon the national security and law enforcement clearances required under subsection (c)(8), may grant registered provisional immigrant status to an alien who—

"(1) meets the eligibility requirements set forth in subsection (b);

"(2) submits a complete application before the end of the period set forth in subsection (c)(3); and

"(3) has paid the fee required under subsection (c)(9)(A) and subsection (c)(9)(C), if applicable.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) In General.—An alien is not eligible for registered provisional immigrant status unless the alien establishes, by a preponderance of the evidence, that the alien meets the requirements set forth in this subsection.

"(2) Physical Presence.—

"(A) In General.—The alien—

"(i) shall be physically present in the United States on the date on which the alien submits an application for registered provisional immigrant status;

"(ii) shall have been physically present in the United States on or before December 31, 2011; and

"(iii) shall have maintained continuous physical presence in the United States from December 31, 2011, until the date on which the alien is granted status as a registered provisional immigrant under this section.

"(B) BREAK IN PHYSICAL PRESENCE.—

"(i) In General.—Except as provided in clause (ii), an alien who is absent from the United States without authorization after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act does not meet the continuous physical presence requirement set forth in subparagraph (A)(iii).

"(ii) Exception.—An alien who departed from the United States after December 31, 2011, will not be considered to have failed to maintain continuous physical presence in the United States if the alien’s absences from the United States are brief, casual, and innocent whether or not such absences were authorized by the Secretary.

"(3) Grounds for Ineligibility.—

"(A) In General.—Except as provided in subparagraph (B), an alien is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

"(i) has a conviction for—

"(I) an offense classified as a felony in the criminal jurisdiction of more than one State or local offense for which an essential element was the alien's immigration status, or a violation of this Act;

"(II) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))) that the alien committed prior to the date on which the alien is granted status as a registered provisional immigrant; or

"(B) any other provision of law, the Secretary of Homeland Security may use such sums as are necessary from the Comprehensive Immigration Trust Fund established under section 6(a)(1) to carry out this section."
(3) 3 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien’s immigration status, or violations of section 192 of the Act if the alien was convicted on different dates for each of the 3 offenses; (IV) any offense under foreign law, except for a purely political offense, which, if the offense was committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (i)) or removable under section 237(a), except as provided in paragraph (3) of section 237(a); (V) unlawful voting (as defined in section 237(a)(3)(B)); or (VI) inadmissibility under section 212(a), except that in determining an alien’s inadmissibility—

(II) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply; (II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the fact of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and (III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant fact began or occurred after the date on which the alien files an application for registered provisional immigrant status under this section.

(iii) an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(6)(C)(i)).

(iv) was, on April 16, 2013—

(I) an alien lawfully admitted for permanent residence;

(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any nonimmigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 1996 or the Public Law 110-229, withstanding any unauthorized employment or other violation of nonimmigrant status.

(II) IN GENERAL.—The Secretary may waive the application of subparagraph (A) in the context of an application for registered provisional immigrant status under section 212(a) referred to in paragraph (1) if the applicant qualifies for an exception set forth in clause (i), which shall be provided in the Federal Register pursuant to paragraph (4).

(a) IN GENERAL.—The Secretary may waive—

(i) an alien if the alien—

(A) is battered or has been subjected to extreme cruelty by the alien’s spouse or parent before entering the United States; or

(B) is battered or has been subjected to extreme cruelty by the alien’s spouse or parent after entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act and the end of the application period described in paragraph (3) of the application form referred to in paragraph (1), shall be subject to the same confidentiality provisions as those set forth in section 9 of title 13, United States Code.

(i) REcORDER.—The Secretary shall submit a report to Congress that contains a summary of the statistical data about immigration trends collected pursuant to clause (i).

(II) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children who are residing in the United States.

(i) EXCEPTIONS.—The Secretary may interview applicants for registered provisional immigrant status under this section to determine whether they meet the eligibility requirements set forth in subsection (b).

(ii) ALIENS APPEARED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period beginning on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act and the end of the application period described in paragraph (3) of the application form referred to in paragraph (1) appears prima facie eligible for registered provisional immigrant status and satisfies the requirements of subparagraph (A), that additional time is required for the applicant to file the application.

(3) APPLICATION PERIOD.—

(A) IN GENERAL.—An alien who departed the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for registered provisional immigrant status, the Secretary may, for other good cause, extend the period for accepting applications for such status for an additional 18 months.

(4) APPLICABILITY OF OTHER PROVISIONS.—

(a) IN GENERAL.—An alien who departed the United States without receiving lawful admission to the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

(b) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children who are residing in the United States.

(c) EXCEPTIONS.—The Secretary may interview applicants for registered provisional immigrant status under this section to determine whether they meet the eligibility requirements set forth in subsection (b).

(d) ALIENS APPEARED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period beginning on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act and the end of the application period described in paragraph (3) of the application form referred to in paragraph (1) appears prima facie eligible for registered provisional immigrant status and satisfies the requirements of subparagraph (A), that additional time is required for the applicant to file the application.

(e) ALIENS APPEARED BEFORE OR DURING THE APPLICATION PERIOD.—

(A) IN GENERAL.—An alien who departed the United States without receiving lawful admission to the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

(B) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children who are residing in the United States.

(c) EXCEPTIONS.—The Secretary may interview applicants for registered provisional immigrant status under this section to determine whether they meet the eligibility requirements set forth in subsection (b).

(d) ALIENS APPEARED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien who is apprehended during the period beginning on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act and the end of the application period described in paragraph (3) of the application form referred to in paragraph (1) appears prima facie eligible for registered provisional immigrant status and satisfies the requirements of subparagraph (A), that additional time is required for the applicant to file the application.

(5) APPLICATION PERIOD.—

(A) IN GENERAL.—An alien who departed the United States without receiving lawful admission to the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1).

(B) EXTENSION.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for registered provisional immigrant status, the Secretary may, for other good cause, extend the period for accepting applications for such status for an additional 18 months.

(i) APPLICATION FOR TAX LIABILITIES.—

(A) IN GENERAL.—The Secretary may waive—

(i) an alien if the alien—

(A) is battered or has been subjected to extreme cruelty by the alien’s spouse or parent before entering the United States; or

(ii) the spouse or child of a United States citizen or lawful permanent resident;
(ii) is the parent of a child who is a United States citizen or lawful permanent resident;

(iii) meets the requirements set forth in clauses (i) and (ii) of section 245(b)(1)(A); or

(iv) meets the requirements set forth in section 245(b)(1)(A)(ii), is 16 years or older on the date on which the alien applies for registered provisional immigrant status, and was physically present in the United States for an aggregate period of not less than 3 years, or 5 years, depending on the prior period immediately preceding the date of the enactment of the Border Security, Economic Opportunity, and Immigrant Reform Act.

(C) Eligibility.—Subject to subparagraph (D) and notwithstanding subsection (b)(2), section 241(a)(5), or a prior order of exclusion, deportation, or removal, an alien described in subparagraph (B) who is otherwise eligible for registered provisional immigrant status may file an application for such status:

(D) Crime Victims’ Rights to Notice and Consultation.—Prior to applying, or exercising, any authority under this paragraph, or ruling on any application allowed under subparagraph (C) the Secretary shall—

(i) determine whether or not an alien described under subparagraph (B) or (C) has a conviction for any criminal offense;

(ii) in consultation with the agency that prosecuted the criminal offense under clause (i), if the agency, in the sole discretion of the agency, is willing to cooperate with the Secretary, make all reasonable efforts to identify each victim of a crime for which an alien determined to be a criminal under clause (i) has a conviction;

(iii) in consultation with the agency that prosecuted the criminal offense under clause (i), if the agency, in the sole discretion of the agency, is willing to cooperate with the Secretary, make all reasonable efforts to provide each victim identified under clause (ii) with written notice that the alien is being considered for a waiver under this paragraph, specifying in such notice that the victim may—

(I) take no further action;

(II) request written notification by the Secretary of any subsequent application for waiver filed by the criminal alien under this paragraph; and

(III) request review by the Immigration and Naturalization Service of any subsequent application for waiver filed by the criminal alien under this paragraph;

(E) Crime Victims’ Right to Intervention.—In addition to the victim notification and consultation provided for in subparagraph (D), the Secretary shall allow the victim of a criminal alien described under subparagraph (B) or (C) to request consultation regarding, or notice of, any application for waiver filed by the criminal alien under this paragraph, including the final determination of the Secretary regarding such application.

(F) Secrecy.—The Secretary and the Attorney General may not make an adverse determination of admissibility or deportability of any alien who is a victim and not lawfully present in the United States based solely on information supplied or derived in the course of an identification, or consultation under this paragraph.

(G) Reports Required.—Not later than September 30 of each fiscal year in which the Secretary exercises any authority under this paragraph to rule upon the application of a criminal offender allowed under subparagraph (C), the Secretary shall submit to the Committees on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report detailing the execution of the victim identification and notification procedures required under subparagraph (D), which shall include—

(i) the total number of criminal offenders who have filed an application under subparagraph (C) and the crimes committed by such offenders;

(ii) the total number of criminal offenders whose application under subparagraph (C) has been granted and the crimes committed by such offenders; and

(iii) the total number of victims of criminal offenders under clause (ii) who were not provided with written notice of the offender’s application and the crimes committed against the victims.

(H) Definition.—In this paragraph, the term ‘victim’ means the meaning given in section 386(c) of the Victims’ Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)).

(II) Suspension of Removal During Application Period.—

(A) Protection from Detention or Removal.—A registered provisional immigrant may not be detained by the Secretary or removed from the United States, unless 1 or more of the grounds of ineligibility specified in such section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

(B) Secrecy.—The Secretary may not grant registered provisional immigrant status or will apply for such status once the application period commences is not in violation of section 274A(a)(2) if the employer continues to employ the alien described in such section (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Act.

(I) notwithstanding such order or section 244(a)(5), the alien may apply for registered provisional immigrant status under this section;

(II) if the alien is granted such status, the alien shall file a motion to reopen the exclusion, deportation, removal, or voluntary departure order, which motion shall be granted unless 1 or more of the grounds of ineligibility is established by clear and convincing evidence.

(J) Limitations on Motions to Reopen.—The limitations on motions to reopen set forth in section 244(c)(7) shall not apply to motions filed under clause (I).

(II) Period Prior to Adjudication of Application.—

(I) General.—During the period beginning on the date on which the alien applies for registered provisional immigrant status under paragraph (I) and the date on which the Secretary makes a final decision regarding such application, the alien—

(a) may receive advance parole to reenter the United States if urgent humanitarian circumstances compel such travel;

(b) may not be detained by the Secretary or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for registered provisional immigrant status under subsection (b)(3); and

(c) shall be considered unlawfully present for purposes of section 212(a)(9)(B) and

(d) shall not be considered an unauthorized alien (as defined in section 274A(b)(3));

(II) Evidence of Application Filing.—As soon as practicable after the alien applies for registered provisional immigrant status, the Secretary shall provide the applicant with a document acknowledging the receipt of the application and the Committee on the Judiciary of the Senate.

(III) Continuing Employment.—An employer who knows that an alien employee is an applicant for registered provisional immigrant status or will apply for such status once the application period commences is not in violation of section 274A(a)(2) if the employer continues to employ the alien described in such section (b) is present in the United States and has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Act.

(IV) Effect of Departure.—Section 101(g) shall not apply to an alien granted—

(a) advance parole under clause (I) to reenter the United States; or

(b) registered provisional immigrant status;

(V) Security and Law Enforcement Clearances.—

(A) Biometric and Biographic Data.—The Secretary may not grant registered provisional immigrant status or will apply for such status once the application period commences if the alien dependent spouse or child under this section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

(B) Alternative Procedures.—The Secretary shall provide an alternative procedure
(A)(i) and (ii) shall be completed before the alien may be granted registered provisional immigrant status; and

(ii) the alien meets the employment requirements set forth in subparagraph (B);

(iii) the alien has successfully passed background checks that are equivalent to the background checks described in section 241(D)(b)(1)(B); and

(iv) such status was not revoked by the Secretary for any reason.

(B) EMPLOYMENT OR EDUCATION REQUIREMENTS.—(i) the alien establishes under paragraphs (D) and (E) of section 245B(b)(3), an alien may not be granted an extension of registered provisional immigrant status under this paragraph if the alien establishes, during the alien’s period of status as a registered provisional immigrant, the alien—

(I) was regularly employed throughout the period of admission, and any extension of such period of admission, as a registered provisional immigrant, allowing for brief periods lasting not more than 60 days; and

(ii) is not likely to become a public charge as determined under section 212(a)(4); or

(ii) is able to demonstrate average income or resources that are not less than 100 percent of the Federal poverty level throughout the period of admission as a registered provisional immigrant.

(C) PAYMENT OF TAXES.—An applicant may not be granted an extension of registered provisional immigrant status under subparagraph (A)(ii) unless the applicant has satisfied any applicable Federal tax liability in accordance with paragraph (2).

(D) FEES AND PENALTIES.—(i) STANDARD PROCESSING FEE.—

(A) IN GENERAL.—Aliens who are 16 years of age or older may not be granted an extension of registered provisional immigrant status under paragraph (1), or for an extension of such status under paragraph (9)(A)(ii), shall pay a processing fee to the Department of Homeland Security in an amount determined by the Secretary.

(ii) RECOVERY OF COSTS.—The processing fee authorized under clause (i) shall be set at a level that is sufficient to recover the full costs of processing the application, including any costs incurred—

(I) to adjudicate the application;

(II) to take and process biometrics;

(III) to perform national security and criminal background investigations;

(IV) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(iii) AUTHORITY TO LIMIT FEES.—The Secretary, by regulation, may—

(I) limit the maximum processing fee pay-able under this subparagraph by a family, including spouses and unmarried children younger than 21 years old; and

(ii) exempt defined classes of individuals, including individuals described in section 245B(c)(13), from the payment of the fee authorized under clause (i).

(iv) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected under subparagraph (A)(i)—

(I) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

(ii) shall remain available until expended pursuant to section 286(n).

(C) PENALTY.—(i) INSTALLMENTS.—The Secretary shall—

(A) EMPLOYMENT.—Notwithstanding any other provision of law, including section 241(a)(7), a registered provisional immigrant status may be granted to an alien who establishes that an alien, who is not granted DACA that would that was issued to the alien—

(I) has not exceeded 180 days in the United States; and

(ii) has not received any criminal convictions in the United States; and

(iii) is not a public charge or a public charge threat, or that contains groups or organizations that pose a threat to, or that are the national security of the United States.

(j)-pay a penalty for any action that would render an alien ineligible for such status.

(ii) ADDITIONAL SECURITY SCREENING.—The Secretary in consultation with the Secretary of Homeland Security shall conduct additional security screening upon determining, in the Secretary’s opinion based upon information related to national security, that an alien or alien dependent spouse or child is or was a citizen or long-term resident of a region or country known to pose a threat, or that contains groups or organizations that pose a threat to the national security of the United States.

(iii) PREREQUISITE.—The required clearances and screenings described in clauses (i) and (ii) shall be completed before the alien may be granted registered provisional immigrant status under this paragraph.

(k) DURATION OF STATUS AND EXTENSION.—(A) IN GENERAL.—The initial period of authorized admission for a registered provisional immigrant under this paragraph—

(i) shall remain valid for 6 years unless revoked pursuant to subsection (d)(2); and

(ii) may be extended for additional 6-year terms if—

(I) the alien remains eligible for registered provisional immigrant status;

(II) the alien meets the employment requirements set forth in subparagraph (B);

(iii) the alien was granted DACA that would not be denied on any basis other than new decision on the alien’s application.

(B) ADDITIONAL SECURITY SCREENING.—The Secretary shall conduct an additional security screening upon determining, in the Secretary’s opinion based upon information related to national security, that an alien or alien dependent spouse or child is or was a citizen or long-term resident of a region or country known to pose a threat, or that contains groups or organizations that pose a threat to the national security of the United States.

(C) PAYMENT OF TAXES.—An applicant may not be granted an extension of registered provisional immigrant status under this paragraph while the alien is subject to subsection (d)(2); and

(iii) any requested additional evidence by the Secretary, that was issued to the alien—

(A) has been approved.

(ii) the alien's application.

(iii) the alien’s absence from the United States; and

(iv) the alien’s failure to timely return was due to circumstances beyond the alien’s control;

(A) CLARIFICATION OF STATUS.—An alien granted registered provisional immigrant status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(B) REVOCATION.—(A) IN GENERAL.—The Secretary may revoke the status of a registered provisional immigrant at any time after providing applicable notice to the alien, and after the exhaustion or waiver of all applicable administrative review procedures under section 265E(c), if the alien—

(i) is not an alien; and

(ii) knowingly used documentation issued under this section for an unlawful or fraudulent purpose;

(iii) is convicted of fraudulently claiming or receiving a Federal means-tested benefit

and entry document for the purpose of applying for admission to the United States;
(as defined and implemented in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)) after being granted registered provisional immigrant status under this section.

(4) Waiver of period of absence from the United States.—If the applicant was previously absent from the United States for a period of more than 180 days in any calendar year, the Secretary may, by rule, provide for a waiver of the period of absence in cases where the applicant was away from the United States for reasons beyond the applicant’s control.

(a) In general.—The alien was granted registered provisional immigrant status under section 212(a)(4)(B) of the Immigration and Nationality Act, the Secretary determines to be necessary to assign a social security number to such alien, and the Secretary shall assign a social security account number to such alien.

(b) Dissemination of information on registered provisional immigrant status.—The Secretary shall disseminate information on registered provisional immigrant status, including any information that is not described in subparagraph (a), to the extent necessary to inform the public about the availability of registered provisional immigrant status.

(c) Use of affidavits.—The Secretary shall use affidavits as necessary to verify the eligibility requirements for registered provisional immigrant status.

(d) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(e) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(f) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(g) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245 of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(b) Use of information.—The Secretary may use information obtained from the applicant or any other source to verify the applicant’s eligibility for registered provisional immigrant status.

(c) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(d) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(e) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(f) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(g) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(h) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(i) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(j) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(k) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(l) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(m) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(n) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(o) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(p) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(q) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(r) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(s) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(t) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(u) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(v) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(w) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(x) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.

(y) Enforcement.—The Secretary shall enforce the provisions of this section through the issuance of orders of removal and the imposition of fines.

(z) Public notice.—The Secretary shall publish public notice of the availability of registered provisional immigrant status in the Federal Register.

(aa) Period of admission.—The period of admission under this section is not eligible for the purposes of applying for adjustment of status under section 245(b) of the Immigration and Nationality Act, or for any other purpose except for departure from the United States.

(bb) Penalties for violation.—If the Secretary finds that an applicant has violated the regulations, the Secretary may impose a monetary penalty on the applicant.
satisfy the employment requirements under this section with a single employer.

"(D) EDUCATION PERMITTED.—An alien may satisfy the requirement under subparagraph (A), if, as a result of a recognized disability or mental impairment, the alien is working toward such placement; or

"(E) AUTHORIZATION OF EXCEPTIONS AND WAIVERS.—

"(1) EXCEPTIONS BASED ON AGE OR DISABILITY.—The employment and education requirements under this paragraph shall not apply to an alien who—

"(i) is younger than 21 years of age on the date on which the alien files an application for the first time within the initial period of authorized admission as a registered provisional immigrant; or

"(ii) is at least 60 years of age on the date on which the alien files an application for an extension of authorized provisional immigrant status or at least 65 years of age on the date on which the alien’s application for adjustment of status is filed under this section; or

"(III) has a physical or mental disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))) or as a result of pregnancy if such

"(1) is unable to work due to circumstances outside the control of the alien.

"(2) during the 3-year period immediately preceding the date on which the person filed an application for registration under this section.

"(2) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The Secretary may not adjust the status of a registered provisional immigrant under this section unless the alien has satisfied the national security and law enforcement clearances requirement set forth in subsection (b).
children.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245C, as added by section 2102 of this title, the following:

SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may adjudge the status of a registered provisional immigrant to the status of a lawful permanent resident if the immigrant demonstrates that he or she—

(i) has been a registered provisional immigrant for at least 5 years; and

(ii) is younger than 16 years of age on the date on which the alien initially entered the United States;

(B) LIMITATION ON APPLICATION FOR NATURALIZATION.—The Secretary may not adjust the status of an alien to lawful permanent resident status unless the alien—

(i) submits biometric and biographic data, in accordance with procedures established by the Secretary, if the alien

(ii) complies with an alternative procedure prescribed by the Secretary, if the alien

is unable to provide such biometric data because of a physical impairment.

(C) BACKGROUND CHECKS.—

(i) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(A) to conduct national security and law enforcement background checks required under clause (i) have been completed with respect to the alien, to the satisfaction of the Secretary.

(B) APPLICATION FOR LAWFUL PERMANENT RESIDENT STATUS.—

(A) IN GENERAL.—A registered provisional immigrant seeking lawful permanent resident status shall file an application for such status in such manner as the Secretary may require.

(B) ADJUDICATION.—

(i) IN GENERAL.—The Secretary shall—

(A) review an application filed by a registered provisional immigrant under this paragraph to determine whether the alien

meets the requirements under paragraph (1).

(B) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets the requirements under paragraph (1), the Secretary shall notify the alien and adjust the status of the alien to lawful permanent resident status, effective as of the date of such determination.

(ii) ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet the requirements under paragraph (1), the Secretary shall notify the alien of such determination.

(C) DACA RECIPIENTS.—The Secretary may adopt streamlined procedures for applicants for adjustment to lawful permanent resident status under this section who were granted Deferred Action for Childhood Arrivals pursuant to the Secretary's memorandum of June 15, 2012.

(D) TREATMENT FOR PURPOSES OF NATURALIZATION.—

(A) IN GENERAL.—An alien granted lawful permanent resident status under this section shall be considered, for purposes of title III—

(i) to have been lawfully admitted for permanent resident and
during the period the alien was a registered provisional immigrant.

(ii) to have been in the United States as an alien lawfully admitted for permanent resident status during the period the alien was a registered provisional immigrant.

(B) LIMITATION ON APPLICATION FOR NATURALIZATION.—An alien may not apply for naturalization while the alien is in registered provisional immigrant status for any alien described in paragraph (1)(A)(ii) pursuant to section 328 or 329.

(C) EXEMPTION FROM NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following:

(E) Aliens whose status is adjusted to permanent resident status under section 245C or 245D.

(3) RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION.—

(I) REPEAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(II) EFFECTIVE DATE.—The repeal under paragraph (I) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208).

(E) NATURALIZATION.—Section 326(a) (8 U.S.C. 1439(a)) is amended by inserting “, without having been lawfully admitted to the United States for permanent resident, and” after “naturalized”.

(F) LIMITATION ON FEDERAL STUDENT ASSISTANCE.—Notwithstanding any other provision of law, aliens granted provisional immigrant status and who initially entered the United States before reaching 16 years of age and aliens granted blue card status shall be eligible only for the following assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.): (1) Student loans under parts D and E of such title IV (20 U.S.C. 1078a et seq. and 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part IV of such title IV (20 U.S.C. 1075 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 services.

SEC. 210A. ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 2102 of this title, the following:

SEC. 245E. ADDITIONAL REQUIREMENTS RELATING TO REGISTERED PROVISIONAL IMMIGRANTS AND OTHERS.—

(a) DISCLOSURES.—

(1) PROHIBITED DISCLOSURES.—Except as otherwise provided in this subsection, no officer or employee of any Federal agency may—

(A) use the information furnished in an application for lawful status under section 245C, as added by section 2102 of this title, the following:

SEC. 210A. ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 2102 of this title, the following:

SEC. 210A. ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 2102 of this title, the following:

SEC. 210A. ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 2102 of this title, the following:

SEC. 210A. ADDITIONAL REQUIREMENTS.
(B) use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting, referring for prosecution, or denying or terminating immigration benefits or reviewing the acquisition of such benefits; and

(b) Employer Protections.—

(1) Use of Employment Records.—Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application for registered provisional immigrant status under section 245B may not be used in a civil or criminal prosecution or investigation of that employer under section 274A or the Internal Revenue Code of 1986 for the purpose of determining whether that alien, regardless of the adjudication of such application or reconsideration by the Secretary of such alien’s prima facie eligibility determination, employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for registered provisional immigrant status shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

(2) Limit on Applicability.—The protections for employers and aliens under paragraph (1) shall not apply if the aliens or employers submit employment records that are deemed to be fraudulent.

(c) Administrative Review.—

(1) Exclusive Administrative Review.—Adминистative review of a determination described in subparagraph (A) shall be conducted solely in accordance with this subsection.

(2) Administrative Appellate Review.—

(A) Establishment of Administrative Appeal Authority.—The Secretary shall establish or designate an appellate authority to provide for a single level of administrative review of a determination with respect to applications for, or revocation of, status under sections 245B, 245C, and 245D.

(B) Single Appeal for Each Administrative Decision.—

(i) In general.—An alien in the United States whose application for status under section 245B, 245C, 245D, or 245F or section 221 of the Agricultural Worker Program of 2003 has been denied or revoked may file with the Secretary not more than 1 appeal of each decision to deny or revoke such status.

(ii) Time Limit.—A notice of appeal filed under this subparagraph shall be filed not later than 90 days after the date of service of the notice of denial or revocation, unless the Secretary determines, for reason of good cause, that the notice of appeal should be filed by a date later than the date established by this subparagraph.

(C) Review by Secretary.—Nothing in this paragraph may be construed to limit the authority of the Secretary to certify appeals for review and final administrative decision.

(D) Denial of Petitions for Defendants.—Appeals of a decision to deny or revoke a petition filed by a registered provisional immigrant pursuant to regulations promulgated under section 245B to classify a spouse or child of such alien as a registered provisional immigrant shall be subject to the appellate authority described in subparagraph (A).

(E) Stay of Removal.—Aliens seeking administrative review shall not be removed from the United States until a final determination is rendered establishing ineligibility for status under section 245B, 245C, or 245D.

(F) Record for Review.—Administrative appellate actions shall be de novo and based solely upon—

(A) the administrative record established at the time of the determination on the application; and

(B) any additional newly discovered or previously unavailable evidence.

(3) Administrative Review of a Decision Under Section 245B.—

(i) In General.—During the period in which an alien may request administrative review under this subsection, and during the period that any such review is pending, the alien shall be considered to be ‘unlawfully present in the United States’ for purposes of section 212(a)(9)(B).

(ii) Prior Deportation.—In the case of the Secretary, in accordance with subsection (a)(1), shall require appropriate administrative and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable information collected, maintained, and disseminated pursuant to sections 245B, 245C, and 245D.

(iii) Assessments.—Notwithstanding the privacy requirements set forth in section 222 of the Homeland Security Act (6 U.S.C. 192) and the E-Government Act of 2002 (Public Law 107–347), the Secretary shall conduct a privacy impact assessment and a civil liberties impact assessment of the legalization programs established by section 245B, 245C, and 245D during the pendency of the interim final regulations required to be issued under section 2110 of the Border Security, Economic Opportunity, and Immigration Modernization Act.—

(j) Judicial Review.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following:

(1) Direct Review.—If an alien’s application under section 245B, 245C, 245D, or 245F or section 221 of the Agricultural Worker Program of 2013 has been denied or revoked, the alien may seek judicial review of the decision, in accordance with this section.

(2) in subsection (b)(2), by inserting ‘‘or, in the case of a decision rendered under section 245B, 245C, or 245D, in the appropriate United States court of appeal in conjunction with the United States court of appeals for the district in which the person resides.’’;

(3) by adding at the end the following:

‘‘(h) Judicial Review of Eligibility Determinations Relating to Status Under Chapter 5.—

(1) In General.—Judicial review of a denial, or revocation of approval of a petition under section 245B, 245C, or 245D in the appropriate United States court of appeal in conjunction with the judicial review of an order of removal, deportation, or exclusion if the validity of the denial has not been upheld in a prior judicial proceeding.’’;

(4) Standards for Judicial Review.—

(A) Basis.—Judicial review of a denial, or revocation of approval of an application under section 245B, 245C, or 245D shall be based on the administrative record established at the time of the review.

(B) Authority to Remand.—The reviewing court may order this subsection to the Secretary for consideration of additional evidence if the court finds that—

(i) the additional evidence is material; and

(ii) there were reasonable grounds for failure to adduce the additional evidence before the Secretary.

(C) Scope of Review.—Notwithstanding any other provision of law, judicial review of all questions arising from a denial, or revocation of approval of an application under section 245B, 245C, or 245D shall be governed by the standard of review set forth in section 706 of title 5, United States Code.

(D) Remedial Powers.—

(A) Jurisdiction.—Notwithstanding any other provision of law, the United States district courts shall have jurisdiction over any cause or claim arising from or practice of the Secretary in the operation or implementation of the Border Security, Economic Opportunity, and Immigration Modernization Act, or the amendments made by such Act, that is arbitrary, capricious, or otherwise contrary to law.

(B) Scope of Relief.—The United States district courts may order any appropriate relief in a clause or claim described in subparagraph (A) without regard to exhaustion, ripeness, or other standing requirements (other than constitutional requirements), if the court determines that—

(i) the resolution of such cause or claim will serve judicial and administrative efficiency; or

(ii) a remedy would otherwise not be reasonably available or practicable.

(E) Challenges to the Validity of the System.—

(A) In General.—Except as provided in paragraph (5), any claim that section 245B, 245C, 245D, or 245F or any regulation, written policy, or written directive, issued or written policy or practice initiated by or under the authority of the Secretary to implement such sections, violates the Constitution or United States law is otherwise in violation of law is available exclusively in an action instituted in United States District Court in accordance with the procedures prescribed in this paragraph.

(B) Savings Provision.—Except as provided in subparagraph (C), nothing in this section shall serve judicial and administrative efficiency; or

(C) Class Actions.—Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with—

(i) the Class Action Fairness Act of 2005 (Public Law 109–2); and

(ii) the Federal Rules of Civil Procedure.

(D) Preclusive Effect.—The final disposition of any claim brought under subparagraph (A) shall be preclusive of any such claim asserted by the same individual in a subsequent proceeding under this subsection.

(E) Exhaustion and Stay of Proceedings.—

(i) In General.—No claim brought under this subparagraph shall be precluded if the Secretary may be required to take an action under section 245B, 245C, or 245D before asserting that an action taken or a decision made by the Secretary with respect to the applicant’s status was properly made.

(ii) Stay Authorized.—In the case of a decision rendered under section 245B, 245C, or 245D in the appropriate United States court of appeal in conjunction with the judicial review of an order of removal, deportation, or exclusion if the validity of the denial has not been upheld in a prior judicial proceeding.

(F) Record for Review.—Administrative appellate actions shall be de novo and based solely upon—

(A) the administrative record established at the time of the determination on the application; and

(B) any additional newly discovered or previously unavailable evidence.
alien under section 245C or 245D of the Immigration and Nationality Act, as added by this subtitle.

(d) Effect of Failure To Register on Eligibility for Immigration Benefits.—Failure to comply with section 264.1(f) of title 8, Code of Federal Regulations or with removal orders or voluntary departure agreements based on such section for acts committed before the date of the enactment of this Act shall not affect the eligibility of an alien to apply for a benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(e) Clerical Amendment.—The table of contents for the Act is amended by inserting the item relating to section 245A the following:

"Sec. 245B. Adjustment of status of eligible aliens before December 31, 2011, to that of registered provisional immigrants.

"Sec. 245C. Adjustment of status of registered provisional immigrants.

"Sec. 245D. Adjustment of status for certain aliens who entered the United States as children.

"Sec. 245E. Additional requirements relating to nonprofit organizations providing them with the services described in section 245E of the Immigration and Nationality Act and blue card status authorized under section 1430 of title 18, United States Code, is amended by adding at the end the following:

"(c) Clerical Amendment.—The table of sections in chapter 69 of title 18, United States Code, is amended by adding at the end the following:

"§ 1430. Improper use of information relating to registered provisional immigrant applications

"Any person who knowingly uses, publishes, or permits information described in section 245A(a) of the Immigration and Nationality Act to be examined in violation of such section shall be fined not more than $10,000."

(b) Deposit of Fines.—All criminal penalties collected under section 1430 of title 18, United States Code, is amended by adding after subsection (a) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) 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 sums as may be necessary for each of the fiscal years 2014 through 2018 to carry out this section.

(3) Availability.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

SEC. 2107. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) Correction of Social Security Records.

(1) In general.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 608(e)(1)) is amended—

(A) in subparagraph (B) of paragraph (1), by striking "or relative; and"

(B) in paragraph (32), by striking ''and'' at the end and inserting "; and"

(C) in paragraph (33), by striking the period at the end and inserting "; and"

"(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date on which the record referred to in paragraph (3) is closed.

"(b) State Discrepancy Regarding Term of Parental Rights.—(1) In general.—(A) The Secretary of Health and Human Services shall make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(B) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(C) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(D) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

"(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date on which the record referred to in paragraph (3) is closed.

"(b) State Discretion Regarding Term of Parental Rights.—(1) In general.—(A) The Secretary of Health and Human Services shall make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(B) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(C) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(D) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

"(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date on which the record referred to in paragraph (3) is closed.

"(b) State Discretion Regarding Term of Parental Rights.—(1) In general.—(A) The Secretary of Health and Human Services shall make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(B) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(C) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.

(D) The Secretary may make reasonable efforts to ensure that the Department of Homeland Security and the Department of Health and Human Services, such as birth certificate, health, and other records, such as passport, visa, and social security number, are accurate.
section:
by adding at the end the following new subsections:
(3) A DDITIONAL INFORMATION TO BE IN-
cluded in case plan.—Section 475 of such Act (42 U.S.C. 675) is amended—
(A) in paragraph (1), by adding at the end the following:
(II) the alien’s status is adjusted under
(B) in paragraph (2), by striking the period
and follow up services provided to the child;
and
(B) by adding at the end the following:
(III) the individual does not satisfy the criterion specified in section
223(c)(1) of the Social Security Act (42 U.S.C. 415(e)) is amended—
(A) in paragraph (1), by striking ‘‘and’’ at the end;
(B) in paragraph (2), by striking the period at the end and inserting ‘‘;’’; and
(C) by adding at the end the following:
(2) CONFORMING AMENDMENT.—Section 223(c)(1) of the Social Security Act (42 U.S.C. 415(e)) is amended—
(A) in paragraph (1), by striking ‘‘and’’ at the end;
(B) in paragraph (2), by striking the period at the end and inserting ‘‘;’’; and
(C) by adding at the end the following:
(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to ben-
efit applications filed on or after the date that is 180 days after the date of the enact-
ment of this Act based on the wages or self-
employment income of an individual with re-
spect to whom a primary insurance amount
has not been determined under title II of the
Social Security Act (42 U.S.C. 401 et seq.) be-
fore such date.
SEC. 2108. GOVERNMENT CONTRACTING AND AC-
QUIRING REAL PROPERTY IN-TERT.
(A) Exemption from Government Con-
tracting and Hiring Rules.—
(1) IN GENERAL.—A determination by a Fed-
eral agency to use a procurement compe-
tition exemption under section 253(c) of title 41, United States Code, or to use the author-
ity granted in paragraph (2), for the purpose of
implementing this title and the amend-
ments made by this title is not subject to challenge by protest to the Government Ac-
counting Office under sections 3551 and
3556 of title 31, United States Code, or to
the Court of Federal Claims, under section 1491 of title 28, United States Code. An agency
shall advise the chief procurement officer of
the exercise of the authority granted under this paragraph.
(B) Government Contracting Exemption.—
The competition requirement under section
253(a) of title 41, United States Code, may be waived or modified by a Federal agency for
private entities, as determined by the Sec-
retary, for the purpose of implementing this title or the amendments made by this
title if the senior procurement executive for
the agency conducting the procurement—
(1) certifies that the waiver or modi-
fication is necessary; and
(2) submits an explanation for such deter-
mination to the Committee on Homeland Se-
curity and Governmental Affairs of the Sen-
ate and the Committee on Homeland Secu-
rit y of the House of Representatives.
(C) Hiring Rules Exemption.—Notwith-
standing any other provision of law, the Sec-
retary is authorized to make term, tem-
porary limited, and part-time appointments of employees who will implement this title and
the amendments made by this title with-
out regard to the number of such employees, their ratio to permanent full-time employ-
ees, and the duration of their employment.
Note.—Specifically, paragraphs (1) and (2) of such Act (42 U.S.C. 675) are amended—
to authorize the Secretary of the Treasury to enter into contracts with non-Federal entities for
services under section 1041 of title 18, United States Code, shall affect the authority of any
Department management official to hire term, temporary limited or part-time em-
ployees under this paragraph.
(b) Authority To Waive Annuity Limita-
tions.—Section 223(c)(2)(B) of the Foreign
Government Loans Act of 1960 (22 U.S.C. 654(k)(2)(B)) is amended by striking ‘‘2009’’ and
inserting ‘‘2017’’.
(c) Authority To Acquire Leased Lands.—
Nothing in this Act and any other provision of law
the Secretary may acquire a leasehold inter-
est in real property, and may provide in a lease entered into under this subsection for
the construction or modification of any fa-
cility on the leased property, if the Sec-
retary determines that the acquisition of such interest, and such construction or modification,
are necessary in order to fa-
ilitate the implementation of this title and
the amendments made by this title.
SEC. 2109. PROVISION REGARDING LOCAL RESIDENTS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.
Section 6(g) of the Joint Resolution enti-
tled ‘‘A joint resolution to extend to the Com-
monwealth of the Northern Mariana Islands
of the United States Code, and the NORTHERN MARIANA ISLANDS.
the ‘Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political
Union with the United States of America’’, as enacted by section 324 of the Consolidated
(1) IN GENERAL.—Subject to paragraphs (2) and
(3), for purposes of subsections (a) and
(b), no quarter of coverage shall be credited for
any semi-monthly earnings of an individual
who has been removed or is involved in an immigration proceeding, unless the child has refused con-
tact with, or the sharing of personal or iden-
tification information with, the government of
his or her country of origin;
(ii) when authorized to do so by the child
the individual was assigned to be employed
in the United States during a quar-
ter, the individual may submit an attest-
tion to the Commissioner of Social Security
that the individual was assigned to be em-
ployed in the United States during such
quarter.
(2) EXCEPTION.—Paragraph (1) shall not
apply to an individual who was assigned to be
employed in the United States during such
quarter.
(3) ATTESTATION OF WORK AUTHORIZA-
TION.—
(A) IN GENERAL.—For purposes of para-
graph (1), if an individual is unable to obtain
or produce sufficient evidence or documenta-
tion that the individual was assigned to be
employed in the United States during a quar-
ter, the individual may submit an attest-
tion to the Commissioner of Social Security
that the individual was assigned to be em-
ployed in the United States during such
quarter.
(B) PENALTY.—Any individual who know-
ingly submits a false attestation described in
subsection (A) shall be subject to the pen-
salties provided under section 1941 of title 18,
United States Code.
(4) BENEFIT COMPUTATION.—Section 215(e)
of the Social Security Act (42 U.S.C. 415(e)) is amended—
(A) in paragraph (1), by striking ‘‘and’’ at the end;
(B) in paragraph (2), by striking the period at the end and inserting ‘‘;’’; and
(C) by adding at the end the following:
(5) IN GENERAL.—A determination by a Fed-
eral agency to use a procurement compel-
tion exemption under section 253(c) of title 41,
United States Code, or to use the author-
ity granted in paragraph (2), for the purpose of
implementing this title and the amend-
ments made by this title is not subject to challenge by protest to the Government Ac-
counting Office under sections 3551 and
3556 of title 31, United States Code, or to
the Court of Federal Claims, under section 1491 of title 28, United States Code. An agency
shall advise the chief procurement officer of
the exercise of the authority granted under this paragraph.

“(i) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(ii) is otherwise amenable to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of an alien described in subparagraph (I) or (II);

“(iv) was, on May 8, 2008, an immediate relative (as defined in section 101(b) of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008), or the Republic of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008, of a United States citizen, notwithstanding the age of the United States citizen, and continues to be such an immediate relative on the date of the application described in subparagraph (A);

“(V) resides in the Northern Mariana Islands as a guest worker under Commonwealth Code, in effect on May 8, 2008, of an alien described in subclause (V) and is presently resident under CW–2 status.

“(C) a qualified/preferences alien designated by the Secretary; or

“(D) a spouse or child (as defined in section 103(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1132(b)(1))), of an alien described in subparagraph (I) or (II);

“(A) if the applicant is represented by an attorney, insuring the eligibility requirements set forth in subsection (a)(1).

“(C) the maximum processing fee payable under sections 245B(c)(10)(B) and 245C(c)(5)(A) of such Act by a family, including spouses and unmarried children younger than 21 years of age or 21 years of age who are physically present in the United States on or before December 31, 2012; or

“(iv) is not otherwise admissible to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of the alien guest worker described in subclause (V) and is presently resident under CW–2 status.

“(B) ALIENS DESCRIBED.—An alien is described in this subparagraph if the alien—

“(im) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(j) is lawfully present in the Commonwealth and is presently resident under CW–2 status.

“(ii) is otherwise amenable to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of an alien described in subparagraph (A) and that alien’s spouse or child may apply for blue card status as a dependent, by submitting a completed application form to the Secretary designates as having substantial experience,

“(B) which individuals will be exempt from such fees;

“(C) the maximum processing fee payable under sections 245B(c)(10)(B) and 245C(c)(5)(A) of such Act by a family, including spouses and unmarried children younger than 21 years of age or 21 years of age who are physically present in the United States on or before December 31, 2012; or

“(D) a spouse or child (as defined in section 103(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1132(b)(1))), of an alien described in subparagraph (I) or (II);

“(ii) is otherwise amenable to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of an alien described in subparagraph (A) and that alien’s spouse or child may apply for blue card status as a dependent, by submitting a completed application form to the Secretary.

“(B) ALIENS DESCRIBED.—An alien is described in this subparagraph if the alien—

“(i) is lawfully present in the Commonwealth and is presently resident under CW–2 status.

“(ii) is otherwise amenable to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of an alien described in subparagraph (I) or (II);

“(iii) resides continuously and lawfully in the Commonwealth from November 28, 2009, through the date of the enactment of this paragraph; and

“(iv) is not a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and

“(i) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(m) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(n) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(o) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(p) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(q) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(r) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(s) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(t) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(u) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(v) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(w) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(x) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(y) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“(z) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

“SEC. 2111. STATUTORY CONSTRUCTION. Except as specifically provided, nothing in this subtitle, may 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.

“Subtitle B—Agricultural Worker Program

“SEC. 2201. SHORT TITLE. This subtitle may be cited as the “Agricultural Worker Program Act of 2013”.

“SEC. 2202. DEFINITIONS. In this subtitle:

“(1) BLUE CARD STATUS.—The term “blue card status” means the status of an alien who has been admitted into the United States for temporary residence under section 212.

“(2) AGRICULTURAL EMPLOYMENT.—The term “agricultural employment” has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1902), without regard to whether the specific service or activity is temporary or seasonal.

“(3) CHILD.—The term “child” has the meaning given the term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

“(4) EMPLOYER.—The term “employer” means any person, entity, or organization, including any agricultural association, that employs workers in agricultural employment.

“(5) QUALIFIED DESIGNATED ENTITY.—The term “qualified designated entity” means—

“(a) a qualified farm labor organization or an association of employers designated by the Secretary.

“(b) any other entity that the Secretary designates as having substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of application for adjustment of status under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.).

“(6) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

“CHAPTER I—PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

“Subchapter A—Blue Card Status

“SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS. (a) REQUIREMENTS FOR BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary, after conducting the national security and law enforcement clearances required under section 245B(c)(4), may grant blue card status to an alien who—

“(1)(A) performed agricultural employment in the United States for not fewer than 575 hours or 100 work days during the 2-year period ending on December 31, 2012; or

“(B) is the spouse or child of an alien described in subparagraph (A) and was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the alien is granted blue card status, with the exception of absences from the United States that are not, and whether or not such absences were authorized by the Secretary;

“(2) submits a completed application before the end of the period set forth in subsection (b); and

“(3) is not ineligible under paragraph (3) or (4) of section 245B(b) of the Immigration and Nationality Act (other than a nonimmigrant alien admitted to the United States for agricultural employment described in section 101(a)(15)(H)(i)(a) of such Act).

“(b) APPLICATION PROCEDURE.—

“(1) IN GENERAL.—An alien who meets the eligibility requirements set forth in subsection (a) may apply for blue card status or for other good cause, the Secretary may extend the period for accepting applications for an additional 18 months.

“(2) QUALIFIED DESIGNATED ENTITY.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines necessary and appropriate.

“(3) FAMILY APPLICATION.—The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children, who are residing in the United States.

“(4) FAMILY APPLICATION.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines necessary and appropriate.

“(5) ALIENS APPREHENDED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien, who is described in paragraph (1)—

“(a) was apprehended in the United States on or before May 8, 2008 and is presently resident under CW–2 status; or

“(b) is the spouse or child of an alien described in subparagraph (A) and was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the alien is granted blue card status, with the exception of absences from the United States that are not, and whether or not such absences were authorized by the Secretary;

“(1) is not otherwise admissible to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of an alien described in subparagraph (I) or (II);

“(ii) is otherwise amenable to the United States under the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))), of a United States citizen, notwithstanding the age of the United States citizen, and continues to be such an immediate relative on the date of the application described in subparagraph (A);

“(iii) resides continuously and lawfully in the Commonwealth from November 28, 2009, through the date of the enactment of this paragraph; and

“(iv) is not a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and

“(A) if the applicant is represented by an attorney, insuring the eligibility requirements set forth in subsection (a)(1).
paragraph (3), appears prima facie eligible for blue card status, the Secretary—

(A) shall provide the alien with a reasonable opportunity to file an application under this section during such application period; and

(B) may not remove the individual until a final administrative determination is made on the application.

(6) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—

(A) PROTECTION FROM DEPORTATION OR REMOVAL.—An alien granted blue card status may not be detained by the Secretary or removed from the United States unless

(i) such alien is, or has become, ineligible for blue card status; or

(ii) the alien’s blue card status has been revoked.

(B) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.),—

(i) if the Secretary determines that an alien, during the period beginning on the date of the enactment of this section and ending on the last day of the application period described in paragraph (2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review and is prima facie eligible for blue card status under this section—

(I) the Secretary shall provide the alien with the opportunity to file an application for such status; and

(II) upon motion by the Secretary and with the consent of the alien, motion by the alien, the Executive Office for Immigration Review shall—

(aa) terminate such proceedings without prejudice to future proceedings on any basis; and

(bb) provide the alien a reasonable opportunity to apply for such status; and

(ii) if the Executive Office for Immigration Review determines that an alien, during the application period described in paragraph (2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review and is prima facie eligible for blue card status under this section—

(I) the Executive Office of Immigration Review shall notify the Secretary of such determination; and

(II) if the Secretary does not dispute the determination of prima facie eligibility within 10 days after such notification, the Executive Office for Immigration Review, upon consent of the alien, shall—

(aa) terminate such proceedings without prejudice to future proceedings on any basis; and

(bb) provide the alien a reasonable opportunity to apply for such status.

(C) TREATMENT OF CERTAIN ALIENS.—

(i) IN GENERAL.—If an alien meets the eligibility requirements set forth in subsection (a) is present in the United States and has been, for a period of 10 years, authorized admission, serves as a valid travel document, and has not departed voluntarily from the United States under any provision of this Act—

(I) notwithstanding such order or section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)), the alien may apply for blue card status under this section; and

(II) if the alien is granted such status, the alien shall file a motion to reopen the exclusion, deportation, removal, or voluntary departure order, which motion shall be granted unless the alien is more of the grounds of ineligibility is established by clear and convincing evidence.

(ii) LIMITATIONS ON MOTIONS TO REOPEN.—The motions to reopen set forth in section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1229(c)(7)) shall not apply to motions filed under clause (i)(II).

(iii) PERIOD PENDING ADJUDICATION OF APPLICATION.—

(A) IN GENERAL.—During the period beginning on the date on which an alien applies for blue card status under this subsection and the date on which the Secretary makes a final determination regarding such application, the alien—

(I) may receive advance parole to reenter the United States if urgent humanitarian circumstances or other extraordinary circumstances require the alien to depart from the United States; and

(II) may not be detained by the Secretary or removed from the United States unless the Secretary makes a final determination that such alien is, or has become, ineligible for blue card status;

(B) during the period described in clause (i), the Secretary—

(I) shall not be considered unlawfully present for purposes of section 274a(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(ii) shall not be considered unauthorized aliens as defined in section 274a(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1326a(h)(3)).

(ii) EVIDENCE OF APPLICATION FILING.—As soon as practicable after each application for blue card status, the Secretary shall provide the applicant with a document acknowledging the receipt of such application.

(iii) CONTINUING EMPLOYMENT.—An employer who knows an alien employee is an applicant for blue card status or will apply for such status in the future period of authorized employment, if any, that commences is not in violation of section 274a(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1224a(v)(2)) if the employer continues to employ the alien pending the adjudication of the alien employee’s application.

(iv) EFFECT OF DEPARTURE.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted such status.

(v) ADVANCE PAROLE.—Section 286(m); and

(vi) to adjudicate the application;

(vii) to take and process biometrics;

(viii) to perform national security and criminal checks, including adjudication; and

(ix) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(ii) AUTHORITY TO LIMIT FEES.—The Secretary, by regulation, may—

(i) limit the maximum processing fee payable under this subparagraph by a family, including spouses and unmarried children younger than 21 years of age; and

(ii) exempt defined classes of individuals from the payment of the fee authorized under clause (i).

(B) DEPOSIT AND USE OF PROCESSING FEES.—

Feas collected pursuant to subparagraph (A) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

(ii) shall remain available until expended pursuant to section 286(n).

(C) PENALTY.—

(i) PAYMENT.—In addition to the processing fee required under subparagraph (A), aliens who fail to apply for blue card status under paragraph (2) shall pay a $100 penalty to the Department.

(ii) DEPOSIT.—Penalties collected pursuant to clause (i) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1).

(10) ADJUDICATION.—

(A) FAILURE TO SUBMIT SUFFICIENT EVIDENCE.—The Secretary shall deny an application submitted by an alien who fails to submit—

(i) requested initial evidence, including requested biometric data; or

(ii) any requested additional evidence by the date required by the Secretary.

(B) AMENDED APPLICATION.—An alien whose application for blue card status is denied under paragraph (A) may file an amended application for such status to the Secretary if the amended application—

(i) is filed within the application period described in paragraph (2);

(ii) contains all the required information and fees that were missing from the initial application; and

(iii) complies with the requirements of subparagraph (A).

(11) EVIDENCE OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary shall issue documentary evidence of blue card status to each alien whose application for such status has been approved.

(B) DOCUMENTATION FEATURES.—Documentary evidence provided under subparagraph (A) shall—

(i) shall be machine-readable and tamper-resistant, and shall contain a digitized photograph;

(ii) shall, during the alien’s authorized period of admission, and any extension of such authorized admission, serve as a valid travel and entry document for the purpose of applying for admission to the United States;

(iii) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity for purposes of section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)); and

(iv) shall include such other features and information as the Secretary prescribe.

(C) TERMS AND CONDITIONS OF BLUE CARD STATUS.—
is not eligible for any Federal means-tested public benefit (as such term is defined and implemented in section 463 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1661)).

(4) TREATMENT OF BLUE CARD STATUS.—(A) A noncitizen granted blue card status shall be considered lawfully present in the United States if such noncitizen remains in such status, except that the noncitizen—

(i) is not entitled to the premium assistance tax credit authorized under section 39B of the Internal Revenue Code of 1986 for his or her coverage;

(ii) shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (e) of such section; and

(iii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(5) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(6) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(7) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(8) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(9) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(10) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(11) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(12) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(13) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(14) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(15) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(16) REVOCATION.—(A) GRACE PERIOD.—The Secretary may revoke a blue card if the Secretary finds, after notice and an opportunity for a hearing, that the alien fraudulently obtained the status. The Secretary shall also revoke the blue card of an alien who is outside the United States at the time of the finding.

(B) REVOCATION ON SPECIFIC CASES.—The Secretary may revoke a blue card in any of the following cases:

(i) The alien is outside the United States at the time of the finding.

(ii) The alien has committed a criminal offense.

(iii) The alien has violated the terms of the blue card status.

(C) SERVICE REQUIREMENT.—Any alien who has been granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.
or prior employer of the alien or any other party.

“(4) APPLICATION PERIOD.—The alien applies for adjustment of status before the alien’s blue card status expires.

“(5) FINE.—The alien pays a fine of $400 to the Secretary, which shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 2(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—

“(1) IN GENERAL.—The Secretary may not adjust the status of an alien granted blue card status if—

“(A) the alien has been lawfully admitted into the United States for temporary residence under section 211 of the Border Security, Economic Opportunity, and Immigration Modernization Act, and the alien’s blue card status has expired; or

“(B) the alien’s blue card status expires if the alien—

“(i) was authorized to work in the United States in blue card status.

“(ii) failed to perform the qualifying employment requirement under subsection (a)(1), considering any amount credited by the Secretary under subsection (a)(3).

“(C) PENDING RESOLUTION PROCEEDINGS.—If the Secretary has notified the applicant that the Secretary intends to revoke the application under section 212(a) of the Act, the Secretary may not approve an application for adjustment of status under this section unless the Secretary makes a final determination not to revoke the application.

“(4) PAYMENT OF TAXES.—

“(A) IN GENERAL.—An applicant may not file an application for adjustment of status under this subsection unless the applicant has satisfied any applicable Federal tax liability.

“(B) DEFINITION OF APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term ‘applicable federal tax liability’ means all Federal income taxes assessed in accordance with section 6205 of the Internal Revenue Code of 1986 since the date on which the applicant was authorized to work in the United States in blue card status.

“(C) COMPLIANCE.—The applicant may demonstrate compliance with subparagraph (A) by submitting such documentation as the Secretary, in consultation with the Secretaries of the Treasury, may require by regulation.

“(D) SPOUSES AND CHILDREN.—Notwithstanding any other provision of law, the Secretary shall grant permanent resident status to the spouse and child of an alien whose status was adjusted under subsection (a) if—

“(1) the spouse or child (including any individual who was a child on the date such alien was granted blue card status) applies for such status;

“(2) the principal alien includes the spouse and children in an application for adjustment of status to that of a lawful permanent resident; and

“(3) the spouse or child is not ineligible for such status under section 245B.

“(e) LIMITATIONS DO NOT APPLY.—The numerical limitations under sections 201 and 202 shall not apply to the adjustment of status if an alien with unlawful permanent resident status under this section.

“(f) SUBMISSION OF APPLICATION.—

“(1) INTERVIEW.—The Secretary may interview the alien under this section to determine whether they meet the eligibility requirements set forth in this section.

“(2) INTENTIONAL.—Applicants for adjustment of status under this section shall pay a processing fee to the Secretary in an amount that will cover the cost of adjudicating such applications, including—

“(i) the cost of taking and processing biometrics;

“(ii) expenses relating to prevention and investigation of fraud; and

“(iii) the cost of applying the administrative fee collected under this paragraph.

“(B) AUTHORITY TO LIMIT FEES.—The Secretary, by regulation—

“(1) may exempt individuals described in section 245B(c)(10) and other defined classes of individuals from the payment of the fee under subparagraph (A); and

“(2) DISPOSITION OF FEES.—All fees collected under paragraph (2)(A)—

“(A) shall be deposited into the Immigration Exports Fee Account pursuant to section 286(m); and

“(B) shall remain available until expended pursuant to section 236(b).

“(4) DOCUMENTATION OF WORK HISTORY.—

“(A) BURDEN OF PROOF.—An alien applying for blue card status under section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act or an adjustment of status under subsection (a) shall provide adequate documentation that the alien has worked a certain number of hours or days required for adjustment of status under section 221I or subsection (a)(3) of this section, as applicable.

“(B) 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 subparagraph (A) may be met by providing timely production of those records under regulations to be promulgated by the Secretary.

“(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the required days or hours of work referred to in subparagraph (A) by producing sufficient evidence to show the extent of that employable as a matter of just and reasonable inference.

“(5) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

“(1) CRIMINAL PENALTY.—Any person who—

“(A) files an application for blue card status under section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act or an adjustment of status under this section and knowingly and willfully makes any false statement or omits any 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

“(B) 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.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be deemed inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(3) DEPORT.—Fines collected under paragraph (1) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(4) ELIGIBILITY FOR LEGAL SERVICES.—Section 506(a)(11) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may 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 blue card status under section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act, to an individual who has been granted blue card status, or for an application for an adjustment of status under this section.

“(b) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(1) APPLICABILITY OF OTHER PROVISIONS.—The provisions set forth in section 245E which are applicable to aliens described in section 245B, 245C, and 245D shall apply to aliens applying for blue card status under section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act or adjustment to permanent resident status under section 245B.

“(2) LIMITATION ON BLUE CARD STATUS.—An alien granted blue card status under section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act or adjustment to permanent resident status under section 245B may only adjust status to an alien lawfully admitted for permanent residence under this section, section 245C of this Act, or section 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(k) DEFINITIONS.—In this section:

“(1) 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 221I of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(2) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1902), without regard to whether the specific service or activity is temporary or seasonal.

“(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) WORK DAY.—The term ‘work day’ means any day in which the individual is employed 5.75 or more hours in agricultural employment.

“(b) CONFORMING AMENDMENT.—Section 201(b)(1)(A), (B), (F), (G), and (I) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1901 et seq.) is further amended by striking the following:

“(C) Aliens granted lawful permanent resident status under section 245B.

“SEC. 2213. USE OF INFORMATION.

“Beginning not later than the first day of the application period described in section 221I and thereafter for fiscal years 2014 through 2016, the Secretary shall submit a report to Congress that identifies, for the previous fiscal year—
(1) the number of aliens who applied for blue card status; (2) the number of aliens who were granted blue card status; (3) the number of aliens who applied for an adjustment of status pursuant to section 245F(a) of the Immigration and Nationality Act, as added by section 2212; and (4) the number of aliens who received an adjustment of status pursuant such section 245F(a).

SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subchapter, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2013 and 2014.

Subchapter B—Correction of Social Security Records

SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) In General.—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) who is granted blue card status under the Agricultural Worker Program Act of 2013;"

(b) Effective Date.—The amendments made by this section shall be effective on the date of the enactment of this Act.

CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISA PROGRAM

SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT AGRICULTURAL WORKERS.

Section 101(a)(15) (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 who was working in the United States for a temporary period;

"(ii) to perform services or labor in agricultural employment and who has a written contract that specifies the wages, benefits, and working conditions of such full-time employment in an agricultural occupation with a designated agricultural employer for a specified period of time; and

"(i) who meets the requirements under section 218A for a nonimmigrant visa described in this clause; or

"(ii) to perform services or labor in agricultural employment and who has an offer of full-time employment in an agricultural occupation from a designated agricultural employer for such employment and is not described in clause (i); and

"(ii) who meets the requirements under section 218A for a nonimmigrant visa described in this clause.

SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICULTURAL WORKER PROGRAM.

(a) In General.—Chapter 2 of title II (8 U.S.C. 1161 et seq.) is amended by inserting after section 218 the following:

"SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PROGRAM.

(a) Definitions.—In this section and in clauses (ii) and (iv) of subparagraph (A) of section 101(a)(15)(W):

"(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporally isolated.

"(2) AT-WILL AGRICULTURAL WORKER.—The term ‘at-will agricultural worker’ means an alien present in the United States pursuant to section 101(a)(15)(W).

"(3) BLUE CARD.—The term ‘blue card’ means an employment authorization and travel document issued to an alien granted blue card status under section 2211(a)(15) of the Agricultural Worker Program Act of 2013.

"(4) CONTRACT AGRICULTURAL WORKER.—The term ‘contract agricultural worker’ means an alien having a residence in a foreign country who—

"(i) meets the requirements under section 101(a)(15)(W); and

"(ii) is granted blue card status under the Agricultural Worker Program Act of 2013.

"(5) DESIGNATED AGRICULTURAL EMPLOYER.—The term ‘designated agricultural employer’ means an employer who is registered with the Secretary of Agriculture pursuant to subsection (e)(1).

"(6) ELECTRONIC JOB REGISTRY.—The term ‘Electronic Job Registry’ means the Electronic Job Registry of a State workforce agency (or similar successor registry).

"(7) EMPLOYER.—The term ‘employer’ means any person who employs an alien for agricultural employment and is not described in clause (i).

"(8) UNITED STATES WORKER.—The term ‘United States worker’ means an individual who—

"(A) is a national of the United States; or

"(B) is an alien who—

"(i) is lawfully admitted for permanent residence;

"(ii) is admitted as a refugee under section 207;

"(iii) is granted asylum under section 208;

"(iv) holds a blue card or is otherwise authorized by this Act or by the Secretary of Homeland Security to be employed in the United States.

"(9) REQUIREMENTS.—

"(1) EMPLOYER.—An employer may not employ an alien for agricultural employment under the Program unless such employer is a designated agricultural employer and complies with the terms of this section.

"(2) WORKER.—An alien may not be employed in agricultural employment under the Program unless such alien is a nonimmigrant agricultural worker and complies with the terms of this section.

"(B) QUARTERLY ALLOCATION.—The annual allocation of visas described in subsection (A) shall be evenly allocated between the 4 fiscal years.

"(B) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, and after reviewing relevant evidence submitted by agricultural producers and organizations representing agricultural workers, may increase or decrease, as appropriate, the worldwide level of visas under paragraph (1) for each of the 5 fiscal years referred to in paragraph (1) after considering appropriate factors, including—

"(i) a demonstrated shortage of agricultural workers; (ii) the level of unemployment and underemployment of agricultural workers during the preceding fiscal year; (iii) the number of applications for blue card status; (iv) the number of nonimmigrant agricultural workers sought by employers during the preceding fiscal year; (v) the estimated number of United States workers, including blue card workers, who worked in agriculture during the preceding fiscal year; (vi) any growth or contraction of the United States agriculture industry that has increased or decreased the demand for agricultural workers; and (vii) any changes in the real wages paid to agricultural workers in the United States as an indication of a shortage or surplus of agricultural labor.

"(B) NOTIFICATION; IMPLEMENTATION.—The Secretary shall notify the Secretary of Homeland Security of any change to the worldwide level of visas for nonimmigrant agricultural workers. The Secretary of Homeland Security shall implement such changes.

"(C) EMERGENCY PROCEDURES.—The Secretary shall establish, by regulation, procedures for immediately adjusting an annual allocation under paragraph (1) for labor shortages, as determined by the Secretary. The Secretary may in consultation with the Secretary of Labor, and after reviewing relevant evidence submitted by agricultural producers and organizations representing agricultural workers, increase or decrease the annual allocation for agricultural workers for each fiscal year following the fiscal years referred to in paragraph (1) after considering appropriate factors, including—

"(i) a demonstrated shortage of agricultural workers; (ii) the level of unemployment and underemployment of agricultural workers during the preceding fiscal year; (iii) the number of applications for blue card status;
"(D) the number of blue card visa applications approved;

"(E) the number of nonimmigrant agricultural workers sought by employers during the preceding fiscal year;

"(F) the estimated number of United States workers, including blue card workers, who worked in agriculture during the preceding fiscal year;

"(G) the number of nonimmigrant agricultural workers issued a visa in the most recent fiscal year who remain in the United States in compliance with the terms of such visa;

"(H) the number of United States workers who accepted jobs offered by employers using the Farm Serv. Agency in the geographic area of the Farm Serv. Agency in the geographic area of the United States during the preceding fiscal year;

"(I) any growth or contraction of the United States agricultural industry that has increased or decreased the demand for agricultural workers; and

"(J) any changes in the real wages paid to agricultural workers in the United States as an indication of a shortage or surplus of agricultural labor.

"(4) EMERGENCY PROCEDURES.—The Secretary shall establish, by regulation, procedures for adjusting an annual allocation under paragraph (3) for labor shortages, as determined by the Secretary. The Secretary shall make a decision on a petition to adjust the amount of status or worker for 30 days after receiving such petition.

"(d) REQUIREMENTS FOR NONIMMIGRANT AGRICULTURAL WORKERS.—

"(1) ELIGIBILITY FOR NONIMMIGRANT AGRICULTURAL WORKER STATUS.—

"(A) IN GENERAL.—An alien is not eligible to be admitted to the United States as a nonimmigrant agricultural worker if the alien—

"(i) violated a material term or condition of a previous admission as a nonimmigrant agricultural worker during the most recent 3-year period; or

"(ii) is not continuously employed by a designated agricultural employer who voluntarily abandons his or her employment before the end of the contract period or whose employment is terminated by the employer for cause;

"(ii) has not obtained successful clearance of any security and criminal background checks required by the Secretary of Homeland Security or any other examination required under this Act; or

"(iii) (I) departed from the United States while subject to an order of exclusion, deportation, or removal, or pursuant to an order of voluntary departure; and

"(II) (aa) is outside of the United States; or

"(bb) has reentered the United States illegally after December 31, 2012, without receiving consent to the alien’s reappearance for admission under section 212(a)(9).

"(B) WAIVER.—The Secretary of Homeland Security may waive the application of subparagraph (A) if the Secretary determines that the waiver is necessary to prevent an operation essential to the national interest from being disrupted.

"(2) CONTRACT AGRICULTURAL WORKER STATUS.—

"(A) REGISTRATION REQUIREMENT.—Each employer seeking to employ nonimmigrant agricultural workers shall register with the Secretary, through the Farm Service Agency in the geographic area of the employer, to designate the number of nonimmigrant agricultural workers for the employer’s employment site or sites.

"(B) CRITERIA.—The Secretary shall grant contract agricultural employer status to an employer who—

"(i) is the employer’s employer identification number; and

"(ii) a registration fee, in an amount determined by the Secretary, that shall be used for the costs of administering the program.

"(C) CRITERIA.—The Secretary shall grant designated agricultural employer status to an employer who submits to the Secretary a registration for such status that includes—

"(i) documentation that the employer is engaged in agriculture; and

"(ii) the estimated number of nonimmigrant agricultural workers the employer will need each year;

"(iii) the anticipated periods during which the employer will need such workers; and

"(iv) documentation establishing need for a specified agricultural occupation or occupations.

"(3) DESIGNATION.—

"(i) REGISTRATION NUMBER.—The Secretary shall assign each employer that meets the criteria established pursuant to subparagraph (B) with a designated agricultural employer registration number.

"(ii) TERM OF DESIGNATION.—Each employer granted designated agricultural employer status under this paragraph shall retain such status for a term of 3 years. At the end of such 3-year term, the employer may renew the registration for another 3-year term. If the employer does not meet the requirements set forth in subparagraphs (A) and (B).

"(D) ASSISTANCE.—In carrying out the functions described in this subsection, the Secretary may work with the Farm Service Agency, or any other agency in the Department of Agriculture—"
“(i) to assist agricultural employers with the registration process under this para-
graph by providing such employers with—

(ii) technical assistance and expertise;

(iii) a nonelectronic means for submitting such applications; and

(iv) a mechanism for providing feedback to the employer on the status of its application.

“(E) DEPOSIT OF REGISTRATION FEE.—Fees collected pursuant to subparagraph (A)(ii) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

“(ii) shall remain available until expended pursuant to section 286(e).

“(2) NONIMMIGRANT AGRICULTURAL WORKER PETITION PROCESS.—

(A) IN GENERAL.—Not later than 45 days before the date on which nonimmigrant agri-
cultural workers are needed, a designated ag-

cultural employer seeking to employ such workers shall submit to the petition for the Sec-

detary of Homeland Security that includes

the employer’s designated agricultural em-
ployer registration number.

(B) ATTESTATION.—An petition submitted under this paragraph shall include an at-
testation of the following:

(i) The number of named or unnamed non-

immigrant agricultural workers that the de-

signed agricultural employer seeks to em-

ploy nonimmigrant agricultural workers.

(ii) the total number of contract agricul-
tural workers and of at-will agricultural

workers the employer will need to employ during the applicable period of em-

ployment.

(iii) shall be deposited into the Immig-

ration Examinations Fee Account pursuant to

section 286(m); and

(iv) Evidence of contracts or written dis-

closures of employment terms and condi-
tions in accordance with the Migrant and

Seasonal Agricultural Worker Protection Act (20 U.S.C. 1801 et seq.), which have been

disclosed or provided to the nonimmigrant

ar

(1) the employer, other than for good cause, dur-

ing the period of employment of the non-

immigrant agricultural worker.

(2) to provide resources about the Pro-

motion of English Language Acquisition.

(3) Office of State Workforce Agency .—Not

later than 90 days before the date on which

the employer shall submit the job opportu-
nity for agricultural employment for which the non-
immigrant agricultural worker, the em-

ployer shall submit the job opportunity for

such worker to the local office of the State

workforce agency where the job site is lo-
cated and authorize the posting of the job

opportunity on the appropriate Department

of Labor Electronic Job Registry for a period

of 7 days.

(2) NONIMMIGRANT AGRICULTURAL WORKER

PETITION PROCESS.—

(A) IN GENERAL.—Not later than 45 days before

the date on which nonimmigrant agri-
cultural workers are needed, a designated ag-
cultural employer seeking to employ such

workers shall submit to the petition for the Sec-
detary of Homeland Security that includes

the employer’s designated agricultural em-
ployer registration number.

(B) ATTESTATION.—An petition submitted under this paragraph shall include an at-
testation of the following:

(i) The number of named or unnamed non-

immigrant agricultural workers that the de-

signated agricultural employer seeks to em-

ploy nonimmigrant agricultural workers.

(ii) the total number of contract agricul-
tural workers and of at-will agricultural

workers the employer will need to employ during the applicable period of em-

ployment.

(iii) shall be deposited into the Immig-

ration Examinations Fee Account pursuant to

section 286(m); and

(iv) Evidence of contracts or written dis-
closures of employment terms and condi-
tions in accordance with the Migrant and

Seasonal Agricultural Worker Protection Act (20 U.S.C. 1801 et seq.), which have been
disclosed or provided to the nonimmigrant

agricultural workers, or a sample of such
contract or disclosure for unnamed workers.

(v) The information submitted to the State
Workforce agency pursuant to para-

graph (3)(A)(i).

(vi) The record of United States workers

employed under subparagraph (3)(A)(i) on the date of the request.

(vii) Evidence of offers of employment

made to United States workers as required under subparagraph (3)(B).

(viii) The employer will comply with the
additonal program requirements for de-

signated agricultural employers described in paragraph (4).

“(C) WORKERS’ COMPENSATION.—If a job re-

ferred to in paragraph (3) is not covered by the State workers’ compensation law, the
employer shall provide, at no cost to the non-
immigrant agricultural worker, insurance covering injury and disease arising out of,
and in the course of, such job.

“(D) PROHIBITION FOR USE FOR NON-

AGRICULTURAL SERVICES.—The employer may not employ a nonimmigrant agri-
cultural worker for agricultural employment other than agricultural

employment.

“(E) HOUSING ALLOWANCE.—The employer shall offer to provide a non-

immigrant agricultural worker with housing

at no cost in accordance with clause (ii) or

the amount the worker would have earned had the worker worked the guaranteed number of hours.

“(F) WAIVER.—The employer shall pay not
less than the wage required under subsection (a).

“(G) REQUIREMENT TO PROVIDE HOUSING.

—If a job refer-
ted to in paragraph (3) is not covered by the
State workers’ compensation law, the employer shall provide, at no cost to the non-
immigrant agricultural worker, insurance covering injury and disease arising out of,
and in the course of, such job.

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the amount the worker would have earned had the worker worked the guaranteed number of hours.

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less than the wage required under subsection (a).

“(G) REQUIREMENT TO PROVIDE HOUSING.

—If a job refer-
ted to in paragraph (3) is not covered by the
State workers’ compensation law, the employer shall provide, at no cost to the non-
immigrant agricultural worker, insurance covering injury and disease arising out of,
and in the course of, such job.

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AGRICULTURAL SERVICES.—The employer may not employ a nonimmigrant agri-
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employment.

“(E) HOUSING ALLOWANCE.—The employer shall offer to provide a non-

immigrant agricultural worker with housing

at no cost in accordance with clause (ii) or

the amount the worker would have earned had the worker worked the guaranteed number of hours.

“(F) WAIVER.—The employer shall pay not
less than the wage required under subsection (a).

“(G) REQUIREMENT TO PROVIDE HOUSING.
‘‘(ii) HOUSING.—An employer may provide housing to a nonimmigrant agricultural worker that meets—

‘‘(I) applicable Federal standards for temporary quarters;

‘‘(II) applicable local standards (or, in the absence of applicable local standards, State standards) for rental or public accommodation housing of another substantially similar class of habitation.

‘‘(iii) HOUSING PAYMENTS.—

‘‘(I) PUBLIC HOUSING.—If the employer arranges for the provision of nonimmigrant agricultural workers through a State, county, or local government program and such public housing is required only because the employer cannot reasonably arrange for the accommodation of the workers from tenants, such payments shall be made by the employer directly to the landlord.

‘‘(II) DEPOSITS.—Deposits for bedding or other personal property required for temporary accommodation to which the workers shall not be collected from workers by employers who provide housing for such workers.

‘‘(III) DAMAGES.—The employer may require any worker who is responsible for damage to housing that did not result from normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repairing such damage.

‘‘(iv) HOUSING ALLOWANCE ALTERNATIVE.—

‘‘(I) IN GENERAL.—The employer may provide a housing allowance in lieu of providing housing under clause (i). 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 assigns a worker in locating housing, which the worker occupies, shall not be deemed a housing provider under section 202 of the Migrant and Seasonal Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing that is owned or controlled by the employer.

‘‘(II) CERTIFICATION REQUIREMENT.—Contract agricultural workers may only be provided a housing allowance if the Governor of the State in which the place of employment is located certifies to the Secretary that there is adequate housing available in the area of intended employment for migrant farm workers. If the contract agricultural workers are seeking temporary housing while employed in agricultural work. Such certificates after 3 years unless renewed by the Governor of the State.

‘‘(III) AMOUNT OF ALLOWANCE.—

‘‘(aa) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this clause is a nonmetropolitan county, the amount of the housing allowance under this clause shall be equal to the average fair market rental for existing housing in nonmetropolitan counties in the State in which the place of employment is located, 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.

‘‘(bb) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this clause is a metropolitan county, the amount of the housing allowance under this clause shall be equal to the average fair market rental for existing housing in metropolitan counties in the State in which the place of employment is located, 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.

‘‘(iv) EXCEPTION FOR COMMUTING WORKERS.—Nothing in this subparagraph may be construed to require an employer to provide housing or a housing allowance to workers who reside in the United States if their place of residence is within normal commuting distance and the job site is within 50 miles of an international land border of the United States in which the workers perform activities associated with that occupation.

‘‘(v) Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45-2092).

‘‘(vi) Farmworkers, Farm, Ranch and Aquacultural Animals (45-2093).

‘‘(vii) DETERMINATION OF OCCUPATIONAL CLASSIFICATION.—A nonimmigrant agricultural worker is employed in a standard occupational classification described in clause (1), (ii), (iii), (iv), (v), or (vi) of subparagraph (A) if the worker performs activities associated with that occupational classification, as specified on the employer’s petition, for at least 75 percent of the time in a semiannual employment period.

‘‘(B) whether the employment of additional agricultural workers at the same place of employment will adversely affect the wages and working conditions of workers in the United States similarly employed.

‘‘(C) whether the employment in the United States of an alien admitted under section 101(a)(15)(H)(ii)(a) or unauthorized

‘‘(2) JOB CATEGORIES.—

‘‘(A) IN GENERAL.—For purposes of paragraph (1), each nonimmigrant agricultural worker employed by such employer shall be assigned to 1 of the following standard occupational classifications, as defined by the Bureau of Labor Statistics:

‘‘(I) Farmworkers, Farm, Ranch and Aquacultural Animals (45-2093).

‘‘(II) Animal Breeders (45-2021).


‘‘(IV) Agricultural equipment operator (45-2091).

(Sec. 1018)
aliens in the agricultural workforce has depressed wages of United States workers engaged in agricultural employment below the levels that would otherwise have prevailed if such aliens had not been employed in the United States.

"(C) whether wages of agricultural workers are sufficient to support such workers and their families at a level above the poverty thresholds determined by the Bureau of Census;

"(D) the wages paid workers in the United States who are not employed in agricultural employment but who are employed in comparable employment;

"(E) the continued exclusion of employers of nonimmigrant workers in agriculture from the payment of taxes under chapter 21 of the Internal Revenue Code of 1986 (26 U.S.C. 3101 et seq.) and chapter 23 of such Code (26 U.S.C. 3301 et seq.);

"(F) the impact of farm labor costs in the United States on the movement of agricultural production to foreign countries;

"(G) a comparison of the expenses and cost structure of foreign agricultural producers to the expenses incurred by agricultural producers based in the United States; and

"(H) the general reliability of the Occupational Employment Statistics Survey.

"(5) ADVERSE EFFECT WAGE RATE.—

"(A) PROHIBITION OF MODIFICATION.—The adverse effect wage rates in effect on April 15, 2013, for nonimmigrants admitted under 101(a)(15)(H)(ii)(A)—

"(i) shall remain in effect until the date described in section 2233 of the Agricultural Worker Program Act of 2013; and

"(ii) may not be modified except as provided in paragraph (B).

"(B) EXCEPTION.—Until the Secretary establishes the wage rates required under paragraph (3)(C), the adverse effect wage rates in effect on the date of the enactment of the Agricultural Worker Program Act of 2013 shall be—

"(i) deemed to be such wage rates; and

"(ii) after September 1, 2015, adjusted annually in accordance with paragraph (3)(B).

"(C) NONPAYMENT OF FICA AND FUTA TAXES.—An employer employing nonimmigrant agricultural workers shall not be required to pay and withhold from such workers—

"(i) the tax required under section 3101 of the Internal Revenue Code of 1986; or

"(ii) the tax required under section 3301 of the Internal Revenue Code of 1986.

"(D) PREFERENTIAL TREATMENT OF ALIENS PROMOTED.—

"(A) IN GENERAL.—Except as provided in paragraph (B), employers seeking to hire United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to nonimmigrant agricultural workers. No job offer may impose on United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to nonimmigrant agricultural workers.

"(B) NOTWITHSTANDING PARAGRAPH (A), a designated agricultural employer is not required to provide housing or a housing allowance to United States workers engaged in agricultural employment.

"(g) WORKER PROTECTIONS AND DISPUTE RESOLUTION.—

"(1) EQUALITY OF TREATMENT.—Nonimmigrant agricultural workers shall not be denied any right or remedy under any Federal, State, or local labor or employment law applicable to United States workers engaged in agricultural employment.

"(2) PROTECTIONS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a designated agricultural employer's failure to meet a condition specified in subsection (e), or an employer's misrepresentation of material facts in a petition under subsection (e)."
(e)(2) or during the period of 30 days preceding such period of employment—

"(1) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, notify other such other administrative procedures (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

"(2) the Secretary may disqualify the employer from the employment of nonimmigrant agricultural workers for a period of 3 years.

"(f) 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 subsections (e)(4) and (f), the Secretary of Labor shall assess payment of back wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment required under subsections (e)(4) and (f) or any rule or regulation pertaining to subsection (e) or (f).

"(8) ROLE OF ASSOCIATIONS.—

"(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—

"(i) IN GENERAL.—If an association acting as the agent of an employer files an application on behalf of such employer, the employment activities of such employer, and for complying with the terms and conditions of subsection (e). If such an employer is determined to have violated any requirement described in this subsection, the penalty for such violation shall apply only to that employer except as provided in clause (ii).

"(ii) MEMBER RESPONSIBILITY.—If the Secretary of Labor determines that the association or other members of the association participated in, had knowledge of, or reason to know of, the violation described in clause (i), the penalty shall also be invoked against the association and its member association members.

"(B) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—

"(i) IN GENERAL.—If an application filing an application as a sole or joint employer is determined to have violated any requirement described in this section, the penalty for such violation shall apply only to the association except as provided in clause (ii).

"(ii) MEMBER RESPONSIBILITY.—If the Secretary of Labor determines that 1 or more association members participated in, had knowledge of, or reason to know of, the violation described in clause (i), the penalty shall be invoked against all complicit association members.

"(c) SPECIAL NONIMMIGRANT VISA PROCESSING AND WAGE DETERMINATION PROCEDURES FOR CERTAIN AGRICULTURAL OCCUPATIONS.—

"(1) FINDING.—Certain industries possess unique occupational characteristics that necessitate the Secretary of Labor to adopt special procedures relating to housing, pay, and visa program application requirements for those industries.

"(2) SPECIAL PROCEDURES INDUSTRY DEFINED.—In connection with the term 'Special Procedures Industry' means—

"(A) sheepherding and goat herding;

"(B) itinerant commercial beekeeping and pollination services industry;

"(C) open range production of livestock;

"(D) itinerant animal shearing; and

"(E) custom combining industries.

"(3) WORK LOCATIONS.—The Secretary shall allow designated agricultural employers in a Special Procedures Industry that do not operate in a single fixed-site location to provide, as part of its registration or petition under the Program, a list of anticipated work locations, which—

"(A) may include an anticipated itinerary; and

"(B) may be subsequently amended by the employer, after notice to the Secretary.

"(4) WAGE RATES.—The Secretary may establish a minimum wage rate or a guaranteed wage rate for a specific occupational category, and in any other manner discriminate against an employee, including a former employee or an applicant for employment, because the employee—

"(A) has disclosed information to the employer, or to any other person, that the employer has failed to pay or maintain a civil action unless a complaint is filed with the Secretary of Labor under paragraph (1) is based on the same violation filed with such worker on behalf of a nonimmigrant agricultural worker, a nonimmigrant agricultural worker is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Secretary in consultation with other agencies of the United States.

"(B) MONITORING REQUIREMENTS.—

"(i) The Secretary shall establish an electronic monitoring system for the provision of housing or a housing allowance to employers in Special Procedures Industries and allow housing suitable for the provision of housing or a housing allowance to employers in Special Procedures Industries.

"(ii) The electronic monitoring system established pursuant to paragraph (B) shall—

"(C) the Secretary of Agriculture, with consultation with employers and employee representatives, shall publish for notice and comment proposed regulations relating to housing, pay, and application procedures for Special Procedures Industries.

"(j) MISCELLANEOUS PROVISIONS.—

"(1) DISQUALIFICATION OF NONIMMIGRANT AGRICULTURAL WORKERS FROM FINANCIAL ASSISTANCE.—An alien admitted as a nonimmigrant agricultural worker is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Secretary in consultation with other agencies of the United States.

"(2) MONITORING REQUIREMENTS.—

"(A) In general.—The Secretary shall ensure that workers will be paid not less frequently than monthly and at a rate no less than the legally required monthly cash wage for such employer as of the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

"(6) ALLERGY LIMITATION.—An employer engaged in the commercial beekeeping or pollination services industry may require that an applicant be immunized against bee venom, or other bee-related allergies.

"(7) APPLICATION.—An individual employer in a Special Procedures Industry may file a program petition on its own behalf or in conjunction with an association of employers. The employer's petition may be part of several related petitions submitted simultaneously that constitute a master petition.

"(8) RULEMAKING.—The Secretary or, as appropriate, the Secretary of Homeland Security or the Secretary of Labor, after consultation with employers and employee representatives, shall publish for notice and comment proposed regulations relating to housing, pay, and application procedures for Special Procedures Industries.

"(1) Employment Verification System described in section 274A(b); and

"(ii) the electronic monitoring system established pursuant to subparagraph (B),

"(B) ELECTRONIC MONITORING SYSTEM.—Not later than 2 years after the effective date of this section, the Secretary of Homeland Security, through the Department of Homeland Security and Immigration Services, shall establish an electronic monitoring system, which shall—

"(i) be modeled on the Student and Exchange Visitor Information System (SEVIS) and the SEVIS II tracking system administered by U.S. Immigration and Customs Enforcement;

"(ii) monitor the presence and employment of nonimmigrant agricultural workers; and

"(iii) assist in ensuring the compliance of designated agricultural employers with the requirements of the Program.

"(B) ROLE MAKING.—The Secretary of Agriculture shall issue regulations to carry out section 218A of the Immigration and Nationality Act, as added by subsection (a), not later than 1 year after the date of the enactment of this Act.

"(C) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218 the following:

"Sec. 218A. Nonimmigrant agricultural worker program.

"(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2014.
SEC. 2245. BENEFITS INTEGRITY PROGRAMS.
(a) IN GENERAL.—Without regard to whether personal interviews are conducted in the adjudication of benefits provided for by sections 203(a)(2), 205(b)(4), or 245(a), the Secretary of Homeland Security, the Director of U.S. Citizenship and Immigration Services, the Attorney General, and the Secretary of Labor shall jointly make available, from the Comprehensive Immigration Reform Trust Fund established by section 9051 of the Immigration Act of 2009 (8 U.S.C. 1306), funds to: (1) carry out an audit of a sample of the cases in which fraud was detected or suspected; and (2) develop and maintain the integrity of such benefits, and may also be referred to U.S. Immigration and Customs Enforcement for investigation of criminal violations of section 236 of the Immigration and Nationality Act (8 U.S.C. 1227).

(b) USE OF FINDINGS OF FRAUD.—Any instance of fraud or abuse detected pursuant to this section may be used to deny or revoke such benefits, and may also be referred to U.S. Immigration and Customs Enforcement for investigation of criminal violations of section 236 of the Immigration and Nationality Act (8 U.S.C. 1227).

(c) U S E OF FINDINGS OF FRAUD.—Any instance of fraud or abuse detected pursuant to this section may be used to deny or revoke such benefits, and may also be referred to U.S. Immigration and Customs Enforcement for investigation of criminal violations of section 236 of the Immigration and Nationality Act (8 U.S.C. 1227).

(d) FUNDING.—There are authorized to be appropriated to the Immigration and Customs Enforcement for the purpose of carrying out this section.

Subtitle C—Future Immigration

SEC. 2301. MERIT-BASED POINTS TRACK ONE.
(a) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), if in any fiscal year the worldwide level of visas available for merit-based immigrants under this section—(1) the number of applicants for such fiscal year, the worldwide level shall increase by 5 percent for the next fiscal year; and—(2) in the case of individuals who are lawful permanent residents of the United States, shall be available for aliens allocated visas under such fiscal year, the worldwide level for the next fiscal year shall be the same as the worldwide level for such fiscal year, minus any number added to the worldwide level for such fiscal year under paragraph (4).

(b) LIMITATION ON INCREASE.—The worldwide level of visas available for merit-based immigrants may not be increased for a fiscal year under paragraph (2) if the annual average unemployment rate for the civilian labor force 18 years or over in the United States, as determined by the Bureau of Labor Statistics, for such previous fiscal year is more than 8 percent.

(c) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of merit-based immigrants shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of merit-based immigrants shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(b) MERIT-BASED IMMIGRANTS.—(1) FISCAL YEARS 2022 THROUGH 2027.—During each of the fiscal years 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.

(3) UNUSED VISAS.—For the fiscal year 2022 through 2027, the worldwide level of visas available in such fiscal year shall be available for aliens described in section 202(b)(3) for such fiscal year under subsection (a) and in addition to any visas available for such aliens under such section.
(7) ELIGIBILITY OF ALIENS IN REGISTERED PROVISIONAL IMMIGRANT STATUS.—An alien who was granted registered provisional immigrant status is not eligible to receive a merit-based immigrant visa under section 201(e).

(8) INELIGIBILITY OF ALIENS WITH PENDING OR APPROVEDPETITIONS.—An alien who has a petition pending or approved in another immigrant category under this section or section 101(a)(15)(H)(ii) shall not apply for a merit-based immigrant visa.

(9) DEFINITIONS.—In this subsection:

(A) HIGH DEMAND TIER 1 OCCUPATION.—The term ‘high demand tier 1 occupation’ means 1 of the 5 occupations for which the highest number of nonimmigrants described in section 101(a)(15)(H)(ii) were sought to be admitted by employers during the previous fiscal year.

(B) HIGH DEMAND TIER 2 OCCUPATION.—The term ‘high demand tier 2 occupation’ means 1 of the 5 occupations for which the highest number of positions were sought to become registered positions by employers under section 101(a)(15)(H)(ii) during the previous fiscal year.

(C) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

(D) ZONE 1 OCCUPATION.—The term ‘zone 1 occupation’ means an occupation that requires little or no preparation and is classified as a zone 1 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

(E) ZONE 2 OCCUPATION.—The term ‘zone 2 occupation’ means an occupation that requires some preparation and is classified as a zone 2 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

(F) ZONE 3 OCCUPATION.—The term ‘zone 3 occupation’ means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; or

(ii) such Database or a similar successor database, as designated by the Secretary of Labor, after such date of enactment.

(10) CIVIC INVOLVEMENT.—An alien who has shown an engagement in a significant amount of community service, as determined by the Secretary, shall be allocated 2 points.

(C) CAREGIVER.—An alien who has or is or has been a primary caregiver shall be allocated 10 points.

(11) ENGLISH PROFICIENCY.—An alien who has demonstrated English proficiency, as determined by a standardized test designated by the Secretary of Education, shall be allocated 10 points.

(12) EMPLOYMENT EXPERIENCE.—An alien shall be allocated more than 20 points as follows:

(1) 3 points for each year the alien has been lawfully employed in the United States or the foreign equivalent shall be allocated 10 points.

(ii) 2 points for each year the alien has been lawfully employed in a zone 4 occupation in the United States.

(c) Employment related to education.—An alien who is in the United States and is employed full-time or has an offer of full-time employment in a field related to the alien’s education—

(1) in a zone 5 occupation shall be allocated 10 points; or

(2) in a zone 4 occupation shall be allocated 8 points.

(d) Entrepreneurship.—An alien who is an entrepreneur in business that employs at least 2 employees in a zone 4 occupation or a zone 3 occupation shall be allocated 10 points.

(e) Caregiver.—An alien who has been lawfully employed in the United States in a zone 4 occupation or has an offer of full-time employment in a zone 5 occupation in the United States in the previous 5 years shall be allocated 5 points.

(f) Civic involvement.—An alien who has demonstrated significant civic involvement shall be allocated 2 points.

(g) English Language.—An alien who received a score of 80 or more on the Test of English as a Foreign Language, or an equivalent score on a similar test, as determined by the Secretary, shall be allocated 2 points.

(h) Siblings and Married Sons and Daughters of Citizens.—An alien who is the sibling of a citizen of the United States or is over the age of 31 and is the married son or married daughter of a citizen of the United States shall be allocated 10 points.

(i) Age.—An alien who—

(1) is over the age of 50, shall be allocated 15 points.

(2) is between 18 and 24 years of age shall be allocated 10 points.

(3) is between 25 and 32 years of age shall be allocated 8 points; or

(4) is between 33 and 37 years of age shall be allocated 6 points; or

(5) is between 38 and 43 years of age shall be allocated 4 points.

(j) Country of origin.—An alien who is a national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in the United States in the previous 5 years shall be allocated 5 points.

(k) Tier 2.—The Secretary shall allocate points to each alien seeking to be a tier 2 merit-based immigrant as follows:

(A) Employment Experience.—An alien shall be allocated 2 points for each year the alien has been lawfully employed in the United States, for a total of not more than 20 points.

(B) Special employment criteria.—An alien who is employed full-time in the United States, or has an offer of full-time employment—

(1) in a high demand tier 2 occupation shall be allocated 10 points; or

(2) in a zone 1, zone 2, or zone 3 occupation shall be allocated 10 points.
paragraph (2), to determine, during the first 7 years of such system—
(i) how the points described in paragraphs (4)(H), (4)(J), (5)(G), and (5)(I) of section 203(c) of such Act were allocated; and
(ii) how many of the points allocated to people lawfully admitted for permanent residence were allocated under such paragraphs;
(iii) the countries of origin of the people who were lawfully admitted under such paragraphs; and
(iv) the number of such visas issued under title 1 and 2 to males and females, respectively.
B. REPORT.—Not later than 7 years after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress that describes the results of the study conducted pursuant to subparagraph (A).

B. MODIFICATION OF POINTS.—The Secretary may submit to Congress a proposal to modify the number of points allocated under subsection (c) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153), as amended by this Act.

C. EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2013.

SEC. 2302. MERIT-BASED TRACK TWO.

(a) In GENERAL.—In addition to any immigrant visa made available under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Title II of this Act, the Secretary of State shall allocate merit-based immigrant visas as described in this section.

(b) STATUS.—An alien admitted on the basis of a merit-based immigrant visa under this section shall have the status of an alien lawfully admitted for permanent residence (as that term is defined in section 101(a)(10) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(10))).

(c) ELIGIBILITY.—Beginning on October 1, 2014, the following aliens shall be eligible for merit-based immigrant visas under this section:

(1) Employment-Based Immigrants.—An alien who is the beneficiary of a petition filed by a United States employer under section 203(a) of the Immigration and Nationality Act to accord status under section 203(b) of the Immigration and Nationality Act, if the visa has not been issued within 5 years after the date such petition was filed.

(2) Family-Sponsored Immigrants.—Subject to subsection (d), an alien who is the beneficiary of a petition filed to accord status under section 203(a) of the Immigration and Nationality Act—

(A) prior to the date of the enactment of this Act, if the visa was not issued within 5 years after the date on which such petition was filed; or

(B) after such date of enactment, to accord status under paragraph (3) or (4) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), as in effect the minute before the effective date specified in section 203(b)(3) of this Act, and the visa was not issued within 5 years after the date on which such petition was filed.

(3) Long-Term Alien Workers and Other Merit-Based Immigrants.—An alien who—

(A) is the beneficiary of a petition pursuant to subparagraph (W) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(B) has been lawfully present in the United States in a status that allows for employment authorization for a continuous period, not counting brief, casual, and innocent absences, of not less than 10 years,

(d) Allocation of Employment-Sponsored Merit-Based Immigrant Visas.—In each of the fiscal years through and including 2021, the Secretary of State shall allocate to aliens described in subsection (c)(1) a number of merit-based immigrant visas equal to 1⁄2 of the number of aliens described in subsection (c)(1) whose visas had not been issued as of the date of the enactment of this Act.

(e) Allocation of Family-Sponsored Merit-Based Immigrant Visas.—The visas authorized by subsection (c)(2) shall be allocated as follows:

(1) Spouses and Children of Permanent Residents.—Petitions to accord status under section 203(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), as amended by this Act, the Secretary of State shall allocate to aliens described in subsection (c)(2)(A), other than the alien selected pursuant to paragraph (1), a number of transitional merit-based immigrant visas equal to 1⁄2 of the difference between—

(A) the number of aliens described in subsection (c)(2)(A) whose visas had not been issued as of the date of the enactment of this Act; and

(B) the number of aliens described in paragraph (1).

(2) Order of Issuance for Subsequently Filed Applications.—Subject to paragraph (1) and (2), the visas authorized by subsection (c)(2)(A) shall be issued without regard to a per country limitation in the order described in section 201(b)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(C)), as it effect the minute before the effective date specified in section 203(b)(3) of this Act, are automatically converted to petitions to accord status to the same beneficiaries as immediately relative under section 201(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)).

(3) Other Family Members.—In each of the fiscal years 2015 through and including 2021, the Secretary of State shall allocate to the aliens described in subsection (c)(2)(A), other than the alien selected pursuant to paragraph (1), the number of merit-based immigrant visas equal to 1⁄2 of the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2021.

(4) Order of Issuance for Subsequently Filed Applications.—Subject to paragraph (1), the visas authorized by subsection (c)(2)(B), the number of merit-based immigrant visas equal to 1⁄2 of the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2022, shall be issued in the order in which the petitions to accord status under section 203(a) were filed prior to the date of the enactment of this Act.

(5) Subsequently Filed Applications.—In fiscal year 2022, the Secretary of State shall allocate to aliens described in subsection (c)(2)(B), the number of merit-based immigrant visas equal to 1⁄2 of the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2021. In fiscal year 2023, the Secretary of State shall allocate to the aliens described in subsection (c)(2)(B), the number of merit-based immigrant visas equal to the number of aliens described in subsection (c)(2)(B) whose visas had not been issued by October 1, 2022.

(b) Employment-Based Immigrants.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

(1) IN GENERAL.—For a fiscal year after fiscal year 2015, the worldwide level of employment-based immigrants under this subsection is equal to the sum of—

(i) 140,000;

(ii) 25,000;

(iii) the number computed under paragraph (2); and

(iv) the number computed under paragraph (3).

(2) Fiscal Year 2015.—For fiscal year 2015, the worldwide level of employment-based immigrants under this subsection is equal to the sum of—

(i) 140,000;

(ii) the number computed under paragraph (2); and

(iii) the number computed under paragraph (3).

(c) Previous Fiscal Year.—The number computed under this paragraph for a fiscal year is the difference, if any, between the maximum number of visas which may be issued under section 202(a) (relating to family-sponsored immigrants) during the previous fiscal year and the number of visas issued under this subsection during that year.

(d) Worldwide Visa.—The number computed under this paragraph is the difference, if any, between—

(i) the sum of the worldwide levels established under paragraph (1), as in effect on the day before the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, for fiscal year 2014 through and including 2016; and

(ii) the number of visas actually issued under section 203(b) during such fiscal years.

(3) Worldwide Level.—For a fiscal year under section 2304(a), as amended by this Act, the Secretary of State shall allocate such diversity immigrant visas for a fiscal year after fiscal year 2015.
“(A) WORLDWIDE LEVEL.—Subject to subparagraph (C), for each fiscal year after fiscal year 2015, the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

(i) 480,000 minus the number computed under paragraph (2); and

(ii) the number computed under paragraph (3).

(B) FISCAL YEAR 2015.—Subject to subparagraph (C), for fiscal year 2015, the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

(i) 480,000 minus the number computed under paragraph (2); and

(ii) the number computed under paragraph (3).

(C) LIMITATION.—The number computed under subparagraph (A)(i) or (B)(i) may not be less than 226,000, except that beginning on the date that is 18 months after the date of the enactment of this Act, the number computed under subparagraph (A)(i) or (B)(i) may not be less than 161,000.

II. IMMEDIATE RELATIVES.—The number computed under this paragraph for a fiscal year is the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were lawfully admitted for permanent residence, or who, prior to the issuance of a visa, were already lawfully admitted for permanent residence in the United States, the alien's parent who is an immediate relative of the alien, and the alien's accompanying parent who is an immediate relative of the alien.

III. NUMBER OF VISA NUMBERS.—The number computed under this paragraph for a fiscal year is the number of visas under this paragraph that are available to the alien, or the alien's parent, or the alien's accompanying parent, as applicable.

IV. LIMITATION.—Subject to paragraph (5), the number computed under subsection (b)(1) to be available to the alien, or the alien's parent, or the alien's accompanying parent, as applicable, is the difference, if any, between—

(A) the worldwide level of family-sponsored immigrants under section 201(a) for the fiscal year, and

(B) the number of visas actually issued under section 201(a) during such fiscal year.

V. LIMITATION ON ADMISSION.—Subject to paragraph (5), the number of visas computed under this paragraph for a fiscal year is the number of visas that are available to an alien or the alien's parent for admission for permanent residence.

VI. NUMBER OF VISA NUMBERS.—The number computed under this paragraph for a fiscal year is the number of visas under this paragraph that are available to the alien or the alien's parent, as applicable.

VII. LIMITATION.—Subject to paragraph (5), the number computed under subsection (b)(1) to be available to an alien or the alien's parent, as applicable, is the difference, if any, between—

(A) the worldwide level of family-sponsored immigrants under section 201(a) for the fiscal year, and

(B) the number of visas actually issued under section 201(a) during such fiscal year.

VIII. LIMITATION.—Subject to paragraph (5), the number of visas computed under this paragraph for a fiscal year is the number of visas that are available to the alien or the alien's parent for admission for permanent residence.

IX. NUMBER OF VISA NUMBERS.—The number computed under this paragraph for a fiscal year is the number of visas under this paragraph that are available to an alien or the alien's parent, as applicable.

X. LIMITATION.—Subject to paragraph (5), the number computed under subsection (b)(1) to be available to an alien or the alien's parent, as applicable, is the difference, if any, between—

(A) the worldwide level of family-sponsored immigrants under section 201(a) for the fiscal year, and

(B) the number of visas actually issued under section 201(a) during such fiscal year.

XI. LIMITATION.—Subject to paragraph (5), the number of visas computed under this paragraph for a fiscal year is the number of visas that are available to an alien or the alien's parent, as applicable.

XII. NUMBER OF VISA NUMBERS.—The number computed under this paragraph for a fiscal year is the number of visas under this paragraph that are available to the alien or the alien's parent, as applicable.
for classification of the alien under subsection (a)(2) and the petition shall retain the priority date established by the original petition.

2. FAMILY AND EMPLOYMENT-BASED PETITIONS.—The priority date for any family- or employment-based petition shall be the date of filing of the petition with the Secretary of Homeland Security, or for the Secretary of State, if applicable, unless the filing of the petition was preceded by the filing of a labor certification with the Secretary of Labor, in which case the priority date shall be the earliest of the dates of certification, any applicable星座posla, and the date of the petition.

3. THE FOLLOWING:

(1) an employee of the United States Security under this paragraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Secretary that the alien has been battered by or has been the subject of extreme cruelty perpetrated by or has been the subject of extreme cruelty by an alien

(2) the marriage or the intent to marry the citizen of the United States or lawful permanent resident was entered into in good faith at the time of the marriage; and

(3) the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

(4) For purposes of clause (i), an alien described in subparagraph (A) or (B) of section 203(a)(1) or to an immediate relative under section 201(b)(2)(A), and who resides, or had resided, with the citizen or lawful permanent resident parent may file a petition with the Secretary of Homeland Security under this paragraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Secretary that the alien's income has been battered by or has been the subject of extreme cruelty perpetrated by or has been the subject of extreme cruelty by an alien.

(5) An alien spouse or alien child described in section 201(b)(2)(A) or (B) may file a petition with the Secretary under this paragraph for classification of the alien (and any child of the alien) if the alien demonstrates to the Secretary that

(i) the alien has been battered by or has been the subject of extreme cruelty perpetrated by or has been the subject of extreme cruelty by an alien.

(ii) the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

(6) For the purposes of any petition filed under subparagraph (C) or (D), the denial of the alien's admission for the purposes of section 201(b)(2)(A) and of subparagraph (C) or (D), as applicable.

(7) Preference status.—(A) any child who is the parent of a citizen of the United States who was a parent of a citizen of the United States that the alien intended to marry; and

(B) any alien who is the parent of a citizen of the United States who was a parent of a citizen of the United States that the alien intended to marry; and

(C) any alien who is the parent of a citizen of the United States who was a parent of a citizen of the United States that the alien intended to marry; and

(D) any alien who has been battered or subject to extreme cruelty by a spouse who is a citizen of the United States or lawful permanent resident within the past 2 years and who otherwise meets any applicable requirements under this paragraph before the individual attained 21 years of age who is included in a petition described in subparagraph (B). No new petition shall be required to be filed.

(E) An alien who is an employee of the United States Security under this paragraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Secretary that the alien has been battered by or has been the subject of extreme cruelty perpetrated by or has been the subject of extreme cruelty by an alien.

(F) An alien who is an employee of the United States Security under this paragraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Secretary that the alien has been battered by or has been the subject of extreme cruelty perpetrated by or has been the subject of extreme cruelty by an alien.

(2) DETERMINATION OF GOOD MORAL CHARACTER.—Notwithstanding section 101(f), an act or conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Secretary of Homeland Security from finding the petitioner to be of good moral character under subparagraph (C) or (D) of paragraph (1) if the Secretary finds that the act or conviction is not one for which the alien has been battered or subjected to extreme cruelty.

3. Preference status.—(A) Any child who attains 21 years of age who has filed a petition under paragraph (1)(D) that was filed or approved before the date on which the child attained age shall be considered to have filed a petition for the status described in such paragraph before the individual attained 21 years of age.

(B) The petition referred to in subparagraph (A)(ii) is a petition filed by an alien described in subparagraph (C) or (D) of paragraph (1) in which the child is included as a derivative beneficiary.

(C) Nothing in the amendments made by the Child Status Protection Act (Pub. L. 107-208; 116 Stat. 927) shall be construed to limit or deny any right or benefit provided under this paragraph.

(D) Any alien who benefits from this paragraph may adjust status in accordance with subsections (a) and (c) of section 245 as an alien having an approved petition for classification under paragraph (C) or (D) of paragraph (1).

(E) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under paragraph (1) before the date on which the individual attained 21 years of age, and who did not file such a petition before the date on which the individual attained 21 years of age, may file a petition under such paragraph as of such day if a petition is filed for the status described in such paragraph before the individual attained 21 years of age.

(F) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under paragraph (1) before the date on which the individual attained 21 years of age, and who did not file such a petition before the date on which the individual attained 21 years of age, may file a petition under such paragraph as of such day if a petition is filed for the status described in such paragraph before the individual attained 21 years of age.
“(4) CLASSIFICATION AS ALIEN WITH EXTRAORDINARY ABILITY.—Any alien desiring to be classified under subparagraph (I), (J), (K), (L), or (M) of section 201(b)(1) or section 201(b)(2) of this Act may file a petition with the Secretary of Homeland Security for such classification.

“(5) CLASSIFICATION AS EMPLOYMENT-BASED IMMIGRANT.—Any employer desiring and intending to employ within the United States an alien entitled to classification under paragraphs (5) or (6) of section 203(b)(1) may file a petition with the Secretary of Homeland Security for such classification.

“(6) CLASSIFICATION AS VAWA PETITIONER.—(A) Any alien (other than a special immigrant under section 101(a)(27)(T)) desiring to be classified under section 203(b)(4), or any person petitioning on behalf of such an alien, may file a petition with the Secretary of Homeland Security for such classification.

“(B) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to subsection (b).

“(7) CLASSIFICATION AS IMMIGRANT INVESCO.—Any alien desiring to be classified under paragraphs (5) or (6) of section 203(b) may file a petition with the Secretary of Homeland Security for such classification.

“(8) DIVERSITY VISA.—(A) Any alien desiring to be provided an immigrant visa under section 233 may file a petition at the place and time and by the Secretary of State by regulation. Only such petition shall be filed by an alien with respect to any petitioning period established. If more than one petition is submitted with respect to such period, the alien whose petition is selected shall be notified.

“(B) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 233 for the fiscal year beginning after the end of the period.

“(ii) Aliens who qualify, through random selection, for a visa under section 101(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

“(iv) The Secretary of State shall prescribe such regulations as may be necessary to carry out this subparagraph.

“(C) A petition under this paragraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

“(D) Each petition to compete for consideration for a visa under section 233 shall be accompanied by a fee equal to $30. All amounts collected under this subparagraph shall be deposited into the Treasury as miscellaneous receipts.

“(9) CONSTRUCTION OF CREDIBLE EVIDENCE.—In acting on petitions filed under subparagraph (C) or (D) of paragraph (1), or in making determinations under paragraphs (2) and (3), the Secretary of Homeland Security shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

“(10) WORK AUTHORIZATION.—(A) Upon the approval of a petition as a VAWA self-petitioner—

“(I) the date on which the alien’s application for status as a VAWA self-petitioner is received by the Secretary of Homeland Security shall be the date on which the alien filed the application.

“(II) LIMITATION.—Notwithstanding paragraphs (I) through (10), an individual who has been classified under subparagraph (5) or (6) of section 214 to classify any person who committed battery or extreme cruelty or trafficking against the individual (or the individual’s immediate family) or the individual’s or individual’s child’s eligibility as a VAWA petitioner or for such non-immigrant status.

“(ii) in subsection (c)(1), by striking “or preference status”; and

“(iii) in subsection (h), by striking “or a petition filed under subsection (a)(1)(B)(ii)”.

“(9) CONSIDERATION OF CREDIBLE EVIDENCE.—(C) A petition under this paragraph shall be accompanied by a fee equal to $30. All amounts collected under this subparagraph shall be deposited into the Treasury as miscellaneous receipts.

“(10) PROCESSING OF VISA APPLICATIONS.—(A) The status of an alien who was approved until such time as an immigrant visa becomes available for the alien.

“(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

“SEC. 2306. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.

“(a) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended—

“(1) in the paragraph heading, by striking “and employment-based”;

“(2) by striking “(3), (4), and (5),” and inserting “(3) and (4),”;

“(3) by striking “sections (a) and (b) of section 235 and inserting “section 235(a);”;

“(4) by striking “T” and inserting “T”;

“(5) by striking “such subsections” and inserting “such section”;

“(b) CONFORMING AMENDMENTS.—Section 202 (8 U.S.C. 1152) is amended—

“(1) in subsection (a), by striking “both subsections (a) and (b) of section 235 and inserting “section 235(a);”;

“(2) by striking paragraph (5); and

“(3) by amending subsection (e) to read as follows:

“(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If it is determined that the total number of nonimmigrants available under section 202(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visas to natives under section 202(a), visa numbers with respect to natives of that state or area shall be allocated in a practicable and otherwise consistent with this section and section 203(b) in a manner so that, except as provided in subsection (a), the ceiling specified in subsection (a) shall be reduced proportionately to the extent practicable.

“(1) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.

“(a) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended—

“(1) in subsection (a), by striking “subsections (a) and (b) of section 235” and inserting “section 235(a);”;

“(2) by striking “section 235 and inserting “section 235(a);”;

“(3) by striking paragraph (5); and

“(4) by amending subsection (e) to read as follows:

“(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If it is determined that the total number of nonimmigrants available under section 202(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visas to natives under section 202(a), visa numbers with respect to natives of that state or area shall be allocated in a practicable and otherwise consistent with this section and section 203(b) in a manner so that, except as provided in subsection (a), the ceiling specified in subsection (a) shall be reduced proportionately to the extent practicable.

“(2) by striking paragraph (d) and redesignating paragraph (e) as paragraph (d).
SEC. 2307. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—

(1) IN GENERAL.—Section 203(a) (8 U.S.C. 1153(a)) and section 230(b), as amended by section 203(d), is further amended to read as follows:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens admitted to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

(1) Sons and daughters of citizens.—Qualified immigrants who are—

(A) the unmarried sons or unmarried daughters but not the children of citizens of the United States who are not eligible to be allocated visas in a number not to exceed 35 percent of the worldwide level authorized in section 201(c), plus the number—

(i) the number of visas not required for the class specified in paragraph (2) for the current fiscal year; and

(ii) the number of visas not required for the class specified in subparagraph (B) or

(B) the married sons or married daughters of citizens of the United States who are 31 years of age or younger at the time of filing a petition under section 204 shall be allocated visas in a number not to exceed 25 percent of the worldwide level authorized in section 201(c) plus any visas not required for the class specified in subparagraph (A) current fiscal year.

(2) SONS AND DAUGHTERS OF PERMANENT RESIDENTS.—If an immigrant who is the unmarried sons or unmarried daughters of aliens admitted for permanent residence shall be allocated visas in a number not to exceed 15 percent of the worldwide level authorized in section 201(c), plus any visas not required for the class specified in subparagraph (A) current fiscal year.

(b) AUTOMATIC CONVERSION.—For the purposes of any petition pending or approved based on a relationship described—

(1) in subparagraph (A) of section 203(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(1)) as amended by paragraph (1), and notwithstanding the age of the alien, such a petition shall be deemed reclassified as a petition based on a relationship described in paragraph (B) of such section 203(a)(1) upon the marriage of such alien; or

(ii) in subparagraph (B) of such section 203(a)(1), such a petition shall be deemed reclassified as a petition based on a relationship described in subparagraph (A) of such section 203(a)(1) upon the legal termination of marriage or death of such alien’s sponsor.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the fiscal year that begins at least 18 months following the date of the enactment of this Act.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by sections 210(c) and 221(d), is further amended by adding at the end the following:

"(b) An alien who is not an immediate beneficiary as described in section 203(d) of employment-based immigrants under section 203(b).

"(2) Aliens with extraordinary ability in the sciences, education, business, or athletics which has been demonstrated by sustained national or international acclaim, if, with respect to any such alien—

(1) a determination of the capacity in which such alien have been recognized in the field through extensive documentation;

"(ii) such alien seeks to enter the United States to continue work in the area of extraordinary ability; and

(iii) the entry of such alien into the United States will substantially benefit prospectively the United States.

(3) (J) Aliens who are outstanding professors and researchers if, with respect to any such alien—

(i) the alien is recognized internationally as outstanding in a specific academic area; and

(ii) the alien has at least 3 years of experience in teaching or research in the academic area;

(4) (K) Aliens who are multinational executives and managers if, with respect to any such alien—

(i) in the 3 years preceding the time of the alien’s application for classification and admission into the United States under this subparagraph, the alien has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof; and

(ii) the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

(5) (L) Aliens who have earned a doctorate degree from an institution of higher education in the United States or the foreign equivalent.

(6) (M) Aliens physicians who have completed the foreign residency requirements under section 212(e) or obtained a waiver of these requirements by an interested State agency or by an interested foreign residency program in the United States in order to continue to render services in the sciences, arts, professions, or occupations for which the foreign residency requirements under section 1153(b) is amended—

"(a) PREFERENCE ALLOCATION FOR GRANTING IMMIGRANT STATUS.—Section 204(h)(1) (8 U.S.C. 1154(h)(1)) is amended by striking "section 201(b), 203(a)(1), or 203(a)(3)," and inserting "section 203(a)" in paragraphs (1), (2)

(c) TREATMENT OF FAMILY MEMBERS.—If a preference allocation for family members is made under paragraphs (1), (2), or (3) of section 203(b), subparagraphs (A) and (B) shall be increased to include spouses and children of such alien.

(2) CONFORMING AMENDMENTS.—

"(1) TREATMENT OF DERIVATIVE FAMILY MEMBERS.—Section 230(b) (8 U.S.C. 1153(b)) is amended to read as follows:

"(2) EXCEPTION FROM LABOR CERTIFICATION REQUIREMENTS.—Section 212(a)(5)(D) (8 U.S.C. 1153(b)(5)(D)) is amended to read as follows:

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES.—Section 203(d) (8 U.S.C. 1153(d)) is amended to read as follows:

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES.—Section 203(d) (8 U.S.C. 1153(d)) is amended to read as follows:
(dd) An alien physician shall not be required to file additional immigrant visa petitions upon a change of work location from the location approved in the original national interest waiver petition, if the Secretary be naturalized without regard to the residence requirements of this section if the person—

(ii) has complied with all requirements as determined by the Secretary of Homeland Security, the Secretary of Defense, the Secretary of Energy, or the head of a petitioning department or agency of the Federal Government, including contractual requirements to maintain employment in a research capacity with a Federal national security, science, and technology laboratory or agency for a period not to exceed five years; and

(3) SEC. 2308. INCLUSION OF COMMUNITIES ADJACENT TO FEDERAL GOVERNMENT SPECIFIED IN CLAUSE (I) OF SECTION 203(b)(5)(B)(ii).—

(a) IN GENERAL.—Section 203(b)(5)(B)(ii) (8 U.S.C. 1153(b)(5)(B)(ii)) is amended by inserting in paragraph (V) of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended to read as follows:

(b) EFFECTIVE DATE.—Section 203(b)(5)(B)(ii) shall take effect at the end of the period of such nonimmigrant's authorization.

(c) SEC. 2309. V NONIMMIGRANT VISAS.

(a) NONIMMIGRANT ELIGIBILITY.—Subparagraph (V) of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended to read as follows:

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SEC. 2309. V NONIMMIGRANT VISAS.

(a) NONIMMIGRANT ELIGIBILITY.—Subparagraph (V) of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended to read as follows:

(b) EFFECTIVE DATE.—Section 203(b)(5)(B)(ii) shall take effect at the end of the period of such nonimmigrant's authorization.
Section 210(b)(1)(B) (8 U.S.C. 1101(b)(1)(B)) is amended by striking “eighteen years” and inserting “21 years”.

SEC. 2212. MODIFICATION OF ADOPTION AGE REQUIREMENTS.
Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amended—
(A) in subparagraph (E), by striking “(E)(i)” and inserting “(E)(ii)”;
(B) by striking “sixteen” and inserting “18”;
(C) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and
(D) by striking clause (ii); and
(3) in subparagraph (G), by striking “16”.

(3) ELIGIBILITY FOR PAROLE.—If an alien described in clause (i) or (ii) was excluded, deported, removed, or departed from the United States before the first day of the first fiscal year beginning after the date of the enactment of this Act, the alien relative may file the classification petition under section 204(a)(15)(K)(ii) no earlier than 1 year after the date of the enactment of this Act.

(4) Effect of Repeal.—The amendments made by this Act shall apply to all petitions or applications for classification as a nonimmigrant or immigrant under section 204(a)(15)(K)(i) or (K)(ii) pending on or after the date of the enactment of this Act.

SEC. 2313. RELIEF FOR ORPHANS, WIDOWS, AND WIDowers.

(a) In General.—
(1) Special Rule for Orphans and Single Parents.—In applying section 101(b)(2)(B) of the Immigration and Nationality Act, as added by section 2305(a) of this Act, to an alien whose parent or lawful permanent resident relative died before the date of the enactment of this Act, the alien relative may file the classification petition under section 204(a)(1)(A)(ii) of the Immigration and Nationality Act not later than 2 years after the date of the enactment of this Act.

(2) Eligibility for Parole.—If an alien who 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 in section 201(b)(2)(B)(iv) of the Immigration and Nationality Act, as amended by section 2305(a) of this Act) due to the death of such citizen or resident—
(A) such alien shall be eligible for parole into the United States pursuant to the Secretary’s discretionary authority under section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)); and
(B) such alien’s application for adjustment of status shall be considered by the Secretary notwithstanding section 212(a)(9) of such Act.

(3) Eligibility for Parole.—If an alien described in section 204(1) of the Immigration Act—
(f) FAMILY-SUPPORTED IMMIGRANTS.—Section 212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)), as amended by section 203(d)(6)(B)(ii), is further amended by adding at the end the following:

"(III) the status as a surviving relative under 204(d) or;"

SEC. 214. DISCRETIONARY AUTHORITY WITH RESPECT TO REMOVAL, DEPORTATION, OR INADMISSIBILITY OF CITIZEN AND RESIDENT IMMEDIATE FAMILY MEMBER.

(a) APPLICATIONS FOR RELIEF FROM REMOVAL.—Section 240(c)(4) (8 U.S.C. 1225a(c)(4)) is amended by adding at the end the following:

"(D) JUDICIAL DISCRETION.—In the case of an alien subject to removal, deportation, or inadmissibility, the immigration judge may exercise discretion to order the removal, deportable, or inadmissible from the United States and terminate proceedings if the judge determines that such removal, deportation, or inadmissibility is against the public interest or would result in hardship to the alien's United States citizen or lawful permanent resident parent, spouse, or child. This subsection shall not apply if the alien is prima facie eligible for naturalization except that this subparagraph shall not apply to an alien whom the Secretary determines—

"(i) is inadmissible or deportable under—

"(1) subparagraph (B), (C), (D)(ii), (E), (H), (I), or (J) of section 212(a)(2);

"(2) section 212(a)(3); or

"(i) engaged in conduct described in paragraph (8) or (9) of section 163 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102); or

"(II) a felony conviction described in section 101(a)(3)(B) that would have been classified as an aggravated felony at the time of conviction;"

(b) SECRETARY'S DISCRETION.—Section 212 (8 U.S.C. 1182), as amended by section 213(d), is further amended by adding at the end the following:

"(W) SECRETARY'S DISCRETION.—In the case of an alien who is inadmissible under this section, the Secretary of Homeland Security may exercise discretion to waive a ground of inadmissibility or deportability if the Secretary determines that such removal or refusal of admission is against the public interest or would result in hardship to the alien's United States citizen or permanent resident parent, spouse, or child. This subsection shall not apply to an alien whom the Secretary determines—

"(I) is inadmissible or deportable under—

"(A) subparagraph (B), (C), (D)(ii), (E), (H), (I), or (J) of subsection (a)(2);

"(B) subsection (a)(3); or

"(C) paragraphs (4)(G), (4)(H)(ii), (4)(I), or (4)(J) of section 212(a)(4)."

(b) Waivers.—The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the Secretary, waive the application of clause (i) or (ii) for an alien who—

"(I) result in extreme hardship to the alien or to the alien's parent, spouse, son, or daughter who is a citizen of the United States or other United States institution of higher education (as defined in section 101(a)(3)(B) of the Higher Education Amendments of 1965 (20 U.S.C. 1095) and had not yet reached the age of 16 years at the time of initial entry to the United States).; or

"(II) result in extreme hardship to the alien or to the alien's parent, spouse, son, or daughter who is a citizen of the United States and resides in the United States.

"(f) FAMILY-SUPPORTED IMMIGRANTS.—Section 212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)), as amended by section 203(d)(6)(B)(ii), is further amended by adding at the end the following:

"(III) the status as a surviving relative under 204(d) or;"

SEC. 215. WAIVERS OF INADMISSIBILITY.

(a) ALIENS WHO ENTERED AS CHILDREN.—Section 212(a)(9)(B)(i)(I) (8 U.S.C. 1182(a)(9)(B)(i)(I)) is amended by adding at the end the following:

"(vi) ALIENS WHO ENTERED AS CHILDREN.—

"(1) by striking “spouse or son or daughter” and inserting “spouse, son, daughter, or parent”;

"(2) by striking “extreme”; and

"(3) by inserting “, child,” after “lawfully resident spouses”;

"(c) IMMIGRATION VIOLATIONS.—

"(1) by striking “related applications,” and inserting “spouse, son, daughter, or parent”;

"(2) by striking “extreme”; and

"(3) by inserting “, child,” after “lawfully resident spouses”;

"(d) FALSE CLAIMS.—

"(1) IN GENERAL.—

"(2) by striking “extreme”; and

"(3) by inserting “, child,” after “lawfully resident spouses”;

"(e) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITIES.—

"(1) by striking “related applications,” and inserting “spouse, son, daughter, or parent”;

"(2) by striking “extreme”; and

"(3) by inserting “, child,” after “lawfully resident spouses”;
“(iv) LIMITATION ON REVIEW.—No court shall have jurisdiction to review a decision or action of the Attorney General or the Secretary regarding a waiver under clause (iii).”

(B) CONFORMING AMENDMENT.—Section 212 (8 U.S.C. 1182) is amended by striking subsection (i).”

“1. TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end, except in the case of an alien who applies for cancellation of removal under subsection (b)(2), on the date that a notice of currency is received by the Executive Office for Immigration Review pursuant to section 240."

SEC. 3216. GLOBAL HEALTH CARE COOPERATION. (a) TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.—

(1) IN GENERAL.—Title III (8 U.S.C. 1401 et seq.) of the Immigration and Nationality Act, as amended by section 317A of the Immigration and Nationality Act, as added by subsection (a) of such section 317A, is amended by inserting after section 317 the following:

“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.—

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

(2) to satisfy the continuous residency requirements under section 316(b).

(b) DEFINITIONS.—In this section:

(1) CANDIDATE COUNTRY.—The term ‘candidate country’ means a country that the Secretary of State determines to be—

(A) eligible for assistance from the International Development Association, in which the peak of the temperature of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

(B) classified as a lower middle income country in the then most recent edition of the World Development Report, and Construction and Development published by the International Bank for Reconstruction and Development and having an income greater than the per capita income of the country is equal to or less than the historical ceiling of the International Development Association eligibility for the applicable fiscal year; or

(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

(2) ELIGIBLE ALIEN.—The term ‘eligible alien’ means an alien who—

(A) has been lawfully admitted to the United States for permanent residence; and

(B) is a physician or other health care worker.

(3) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

(d) PUBLICATION.—The Secretary of State shall publish—

“1. not later than 180 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, a list of candidate countries;”

(2) an updated version of the list required by paragraph (1) not less often than once each year; and

(3) an amended list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).

(2) RULES OF CONSTRUCTION.—

(A) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to subparagraph (A) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by subsection (a)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 12-month period that the Secretary determines that such country has an obligation to protect an eligible alien or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, such spouse or child, if appropriate, is authorized to reside in such country under such section 317A;

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary determines that such country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 1101(a)(3)(C)(i) (8 U.S.C. 1101(a)(3)(C)(i)) is amended by adding “except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be in the United States under section 317A,” at the end.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) (8 U.S.C. 1111(b)) is amended by inserting “and such spouse or child of such eligible alien, if appropriate,” after “101(a)(27)(A),”.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by adding “other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,” after “Act,”.

(4) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

“Sec. 317A. Temporary absence of aliens providing health care in developing countries;”

(b) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

“(E) HEALTH CARE WORKERS WITH OTHER ORIGINS.—

(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not a member of the United States armed forces for such purpose during any period in which the alien has an outstanding obligation to the government of the alien’s country of origin or the alien’s country of residence.

(ii) OBLIGATION DEFINED.—In this subparagraph, the term ‘obligation’ means an obligation incurred as part of a valid, voluntary international agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in the alien’s country of origin or the alien’s country of residence.

(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

(I) the obligation was incurred by coercion or other improper means;

(II) the alien and the government of the country to which the alien has an outstanding obligation to the government of the United States for purposes of permanent residence; and

(iii) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(3) NOT LATER THAN 180 DAYS AFTER THE DATE OF ENACTMENT OF THE BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT;"
“(ii) a media or nongovernmental organization headquartered in the United States; or

“(iii) an organization or entity closely associated (A) with the United States mission in Iraq that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement.”

“(II) in subparagraph (C), by striking “the United States Government” and inserting “an entity or organization described in subparagraph (A)”;

“(III) in subparagraph (D), by striking by striking “the United States Government” and inserting “the United States Government” prior and inserting “an entity or organization described in paragraph (2)(A)(ii)”; and

“(II) by striking “the United States Government” and inserting “an entity or organization described in paragraph (2)(A)(ii)” prior; and

“(III) by adding at the end the following:

“(i) in subparagraph (E), by striking “the United States Government” and inserting “an entity or organization described in subparagraph (A)”;

“(ii) in clause (iii), by striking “the United States Government” and inserting “an entity or organization described in paragraph (2)(A)(ii)” prior; and

“(iii) by adding at the end the following:

“(iv) the Senate;”

“SEC. 2319. EXTENSION AND IMPROVEMENT OF THE AFGHAN SPECIAL IMMIGRANT VISA PROGRAM.

Section 602(b) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note) is amended—

“(1) in paragraph (2)—

“(A) in subparagraph (A)—

“(i) by amending clause (ii) to read as follows:

“(II) was or is employed in Afghanistan on or after October 7, 2001, for not less than 1 year, by, or on behalf of —

“(I) the United States Government;

“(II) a media or nongovernmental organization headquartered in the United States; or

“(III) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement;”;

“(ii) in clause (iii), by striking “the United States Government” and inserting “an entity or organization described in clause (i)”; and

“(iii) in clause (iv), by striking by striking “the United States Government” and inserting “such entity or organization.”

“(2) FAMILY MEMBERS.—An alien is described in this subparagraph if the alien is—

“(i) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(ii)(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) has or will have been employed by the United States Government and is accompanying or following to join the principal alien in the United States; or

“(2) CONTENTS.—The report submitted under paragraph (1) shall describe the implementation of improvements to the processing of special immigrant visas under section 1244 during each month of the preceding fiscal year:

“(A) enhancing existing systems for conducting background and security checks of persons applying for special immigrant status, which shall—

“(i) support immigration security; and

“(ii) provide for the orderly processing of such applications without delay;

“(B) the financial, security, and personnel considerations and resources necessary to carry out this subtitle;

“(C) the number of aliens who have applied for special immigrant visas under section 1244 during each month of the preceding fiscal year;

“(D) the reasons for the failure to expeditiously process any applications that have been pending for more than 6 months;

“(E) the total number of applications that are pending due to the failure—

“(i) to receive approval from the Chief of Mission;

“(ii) for U.S. Citizenship and Immigration Services to complete the adjudication of the Form I-360;

“(iii) to conduct a visa interview; or

“(iv) to issue the visa to an eligible alien;

“(F) the average wait times for an applicant at each of the stages described in subparagraph (E);

“(G) a breakdown of reasons for denials at the Chief of Mission based on the categories already made available to denied special immigrant visa applicants in the denial letter sent to them by the Chief of Mission;

“(H) PUBLIC QUARTERLY REPORTS.—Not later than 120 days after the date of the enactment of the Additional Supplemental Appropriations Act, 2009 (P.L. 111-8) the Secretary of State, acting through the Chief of Mission in Afghanistan, shall prepare and submit to the Senate and the House of Representatives a quarterly report on the status, organization and work of the special immigrant visa program under this subsection. The Secretary shall include in the report —

“(i) the number of aliens who have applied for special immigrant visas under section 1244 during each month of the preceding fiscal year;

“(ii) the United States Government; and

“(III) in subparagraph (D), by striking by striking “the United States Government” and inserting “an entity or organization described in paragraph (2)(A)(ii)” prior; and

“(ii) in clause (iii), by striking “the United States Government” and inserting “an entity or organization described in subparagraph (A)”;

“(II) by striking “the United States Government” and inserting “an entity or organization described in paragraph (2)(A)(ii)” prior; and

“(III) by adding at the end the following:

“(i) a media or nongovernmental organization headquartered in the United States; or

“(ii) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement.”

“(2) FISCAL YEARS 2014 THROUGH 2018.—For each of the fiscal years 2014 through 2018, the total number of principal aliens who may be provided special immigrant status under this section may not exceed the sum of—

“(I) 5,000;

“(II) the difference between the number of special immigrant visas allocated under this section for fiscal years 2009 through 2013 and the number of such allocated visas that were issued; and

“(III) any unused balance of the total number of principal aliens who may be provided special immigrant status in fiscal years 2014 through 2018 that have been carried forward.”

“(3) in paragraph (4)—

“(A) in the heading, by striking “PROHIBITION ON FEES.” and inserting “APPLICATION PROCESS.”;

“(B) by striking “The Secretary” and inserting the following:

“(II) Not later than 120 days after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall improve the efficiency by which applications for special immigrant visas under section 1244 during each fiscal year are processed so that all steps incidental to the issuance of such visas, including required screenings and background checks, are completed not later than 120 days after the date on which an eligible alien applies for such visa.

“(II) in clause (i), by striking “The Secretary” and inserting “such entity or organization.”

“(4) in paragraph (5), by striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(5) in paragraph (6), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(6) in paragraph (7), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(7) in paragraph (8), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(8) in paragraph (9), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(9) in paragraph (10), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“(10) in paragraph (11), by—

“(I) striking “the following:

“(I) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(II) the spouse, parent, or sibling of a principal alien described in subparagraph (A) who is accompanying or following to join the principal alien in the United States; or

“(III) a media or nongovernmental organization headquartered in the United States; or

“(IV) an organization or entity closely associated with the United States mission in Afghanistan that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement in the United States.”

“SEC. 2320. REPORTS REGARDING THE AFGHAN ALLIES PROTECTION ACT.

Notwithstanding subparagraphs (A) and (B), and consistent with subsection (b), any unused balance of the total number of principal aliens who may be provided special immigrant status under this section, shall be—

“(A) deposited in the Treasury of the United States Government."
of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretaries of State and Homeland Security, shall submit to the appropriate committees of Congress an annual report, with a classified annex, if necessary, that describes the implementation of improvements to the application process for subcategory (d) of such immigrant visas under this subsection, including information relating to—

(A) enhancing existing systems for conducting background and security checks of persons applying for special immigrant status, which shall—

(i) support immigration security; and

(ii) provide for the orderly processing of such applications without delay;

(B) the financial, security, and personnel considerations and resources necessary to carry out this section;

(C) the number of aliens who have applied for special immigrant visas under this subsection during each month of the preceding fiscal year;

(D) the reasons for the failure to expeditiously process any applications that have been pending for more than 9 months;

(E) the total number of applications that are pending due to the failure—

(i) to receive approval from the Chief of Mission;

(ii) for U.S. Citizenship and Immigration Services to complete the adjudication of the Form I-131A; or

(iii) to conduct a visa interview; or

(iv) to issue the visa to an eligible alien;

(F) the average wait times for an applicant at each of the stages described in subparagraph (E);

(G) the number of denials or rejections at each of the stages described in subparagraph (E); and

(H) a breakdown of reasons for denials by the Chief of Mission based on the categories already made available to denied special immigrant visa applicants in the denial letter sent to them by the Chief of Mission.

(13) PUBLIC QUARTERLY REPORTS.—Not later than 120 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, and every 3 months thereafter, the Secretary of State and the Secretary of Homeland Security, until notification with the Secretary of Defense, shall publish a report on the website of the Department of State that describes the efficiency improvements made in the processing by which applications for special immigrant visas under this subsection are processed, including information described in subparagraph (C) through (H) of paragraph (12).”.

SEC. 2230. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM. Section 101(a)(27)(C)(i) (8 U.S.C. 1101(a)(27)(C)(i)) is amended in subclauses (II) and (III) by striking “before September 30, 2015,” both places such term appears.

training and agrees to continue to work for a total of not less than 3 years in any status authorized for employment under this subsection, unless—

(1) the Secretary determines that extenuating circumstances exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate bona fide offer of employment at a health facility or health care organization, for the remainder of such 3-year period; or

(2) the Secretary determines that the contracting facility or organization will not add additional work locations without the approval of the Federal agency or State agency that requested the waiver, and the alien demonstrates that the contracting facility or organization will not add additional work locations without the approval of the Federal agency or State agency that requested the waiver, and the alien demonstrates that extenuating circumstances exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate bona fide offer of employment at a health facility or health care organization, for the remainder of such 3-year period; or

(3) if the alien elects not to pursue a determination of extenuating circumstances pursuant to subsection (1) or (2), the alien terminates the alien's employment relationship with such facility or organization, in which case the alien shall demonstrate another bona fide offer of employment at a health facility or health care organization so designated by the Secretary of Health and Human Services, for the remainder of such 3-year period; or

(4) the alien demonstrates that extenuating circumstances exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate another bona fide offer of employment at a health facility or health care organization, for the remainder of such 3-year period; or

(5) the alien demonstrates that extenuating circumstances exist that justify a lesser period of employment at such facility or organization, in which case the alien shall demonstrate another bona fide offer of employment at a health facility or health care organization, for the remainder of such 3-year period; or

(6) an alien granted a waiver under paragraph (1)(C) whose employment relationship terminates during the 3-year service period required by such paragraph—

(A) shall have a period of 120 days beginning on the date of termination of such employment to submit to the Secretary of Homeland Security applications or petitions to commence employment with another contract health facility or health care organization in a geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

(B) shall be considered to be maintaining lawful status in an authorized status during such 120-day period referred to in subsection (A); and

(C) shall not be considered to be fulfilling the 3-year term of service during the 120-day period referred to in subparagraph (A).

SEC. 2404. ALLOTTED 30 WAIVERS.

(a) IN GENERAL.—Section 214(l)(1) (8 U.S.C. 1184(l)(1)), as amended by section 2403, is further amended by adding at the end the following:

"(B) Any increase in allotments under subsection (b) for the period ending 120 days after October 1 of the fiscal year in which there are no Allied Health Personnel Act of 1969 grants will automatically extend to October 1 of the fiscal year for which such petition is filed."

SEC. 2501. DEFINITIONS.

In this subtitle:

(1) CHIEF.—The term "Chief" means the Chief of the Office.

(2) FOUNDATION.—The term "Foundation" means the United States Immigration Foundation established pursuant to section 2531.

(3) IEACA GRANTS.—The term "IEACA grants" means Initial Entry, Adjustment, and Immigration Assistance grants authorized under section 2537.

(4) IMMIGRATION INTEGRATION.—The term "immigrant integration" means the process by which the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B) and subject to paragraph (6) in accordance with the conditions of this clause to exceed 3%).

SEC. 2405. AMENDMENTS TO THE PROCEDURES, DEFINITIONS, AND OTHER PROVISIONS RELATED TO PHYSICIAN IMMIGRATION.

(a) ALLOWABLE VISAS FOR PHYSICIANS FULFILLING WAIVER REQUIREMENTS IN MEDICALLY UNDERSERVED AREAS.—Section 214(l)(2)(A) (8 U.S.C. 1184(l)(2)(A)) is amended by striking "an alien described in section 101(a)(15)(H)(i)(b)," and inserting "any status authorized for employment under this Act."

(b) SHORT TERM WORK AUTHORIZATION FOR PHYSICIANS COMPLETING THEIR RESIDENCIES.—A physician completing graduate medical education or training as described in section 212(j) of the Immigration and Nationality Act (8 U.S.C. 1182(j)) as a nonimmigrant described in section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) shall have such nonimmigrant status automatically extended for 1 year of the fiscal year for which a petition for a continuation of such nonimmigrant status has been submitted in a timely manner and where the employment incident to status for the beneficiaries of such petition is October 1 of that fiscal year. Such physician shall be authorized to be employed incident to status during the period between the date of such petition and October 1 of such fiscal year. However, the physician's status and employment authorization will automatically extend to October 1 of the next fiscal year if all visas as described in section 101(a)(15)(H)(i) are not issued for the fiscal year have been issued.

(c) APPLICABILITY OF SECTION 212(e) TO SPOUSES AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse or child of an alien described in section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)) shall be subject to the conditions described in section 601(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)) as determined by the Secretary of Homeland Security.

Subtitle E—Integration

SEC. 2501. DEFINITIONS.

In this subtitle:

(1) CHIEF.—The term "Chief" means the Chief of the Office.

(2) FOUNDATION.—The term "Foundation" means the United States Immigration Foundation established pursuant to section 2531.

(3) IEACA GRANTS.—The term "IEACA grants" means Initial Entry, Adjustment, and Immigration Assistance grants authorized under section 2537.

(4) IMMIGRATION INTEGRATION.—The term "immigrant integration" means the process by which the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B) and subject to paragraph (6) in accordance with the conditions of this clause to exceed 3%).
5. **LINGUISTIC INTEGRATION.**—The term "linguistic integration" means the acquisition, by limited English proficient individuals, of English language skills and related cultural knowledge necessary to meaningfully and effectively fulfill their roles as community members, family members, and workers.

6. **ORYX.**—The term "ORYX" means the Office of Citizenship and New Americans established pursuant to section 2521.

7. **PERSON.**—The term "person" means a natural person, corporation, or political subdivision of a State or the United States.

8. **TO FORCE.**—The term "TO FORCE" means the Task Force on New Americans established pursuant to section 2521.

9. **USCF COUNCIL.**—The term "USCF Council" means the Council of Directors of the Foundation.

### CHAPTER 1—CITIZENSHIP AND NEW AMERICANS

#### Subchapter A—Office of Citizenship and New Americans

**SEC. 2511. OFFICE OF CITIZENSHIP AND NEW AMERICANS.**

(a) **RENAMEING OFFICE OF CITIZENSHIP.**—Beginning on the date of the enactment of this Act, the Office of Citizenship and Immigration Services shall be referred to as the "Office of Citizenship and New Americans." (b) **REFERENCES.**—Any reference in a law, regulation, document, paper, or other record to the Office of Citizenship and Immigration Services shall be deemed to be a reference to the Office of Citizenship and New Americans.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**— Chapter 1 of title 6, United States Code (6 U.S.C. 271 et seq.) is amended——

1. **IN GENERAL.**—Beginning on the date of the enactment of this Act, the Office of Citizenship and Immigration Services shall be deemed to be a reference to the Office of Citizenship and New Americans.

2. **REFERENCES.**—Any reference in a law, regulation, document, paper, or other record to the Office of Citizenship and Immigration Services shall be deemed to be a reference to the Office of Citizenship and New Americans.

### SEC. 2512. MEMBERSHIP.

(a) **IN GENERAL.**—Beginning on the date of the enactment of this Act, the Office of Citizenship and Immigration Services shall be headed by the Chief of the Office of Citizenship and New Americans.

(b) **FUNCTIONS.**—The Chief of the Office of Citizenship and New Americans shall—

(C) provide general leadership, consultation, and coordination of the immigrant integration programs across the Federal Government and with State and local entities; (D) carry out the purposes set forth in section 2523; and (E) carry out the purposes set forth in section 2523.

### SEC. 2513. ESTABLISHMENT OF UNITED STATES CIVIC FOUNDATION.

(a) **IN GENERAL.**—The Secretary shall establish a United States Civic Foundation.

(b) **FUNDING.**—The United States Civic Foundation may accept gifts to support programs and activities of special importance to new immigrants and receiving communities.

### SEC. 2514. PURPOSE.

The purposes of the United States Civic Foundation are——

(A) to establish a coordinated Federal program and policy response to immigrant integration issues; and (B) to carry out such other functions and activities as the Secretary may assign.

### SEC. 2515. AMENDMENTS.

(a) **IN GENERAL.**—The amendments made by section (a)(3) of such Act (6 U.S.C. 271(f)), as amended by subsection (a)(3)(D), is further amended by striking paragraph (2) and inserting the following:

(i) The Chief of the Office of Citizenship and New Americans shall—

(A) promote institutions and provide training on citizenship responsibilities for aliens who are becoming naturalized citizens of the United States, including the development of educational materials for such aliens; (B) provide general leadership, consultation, and coordination of the immigrant integration programs across the Federal Government and with State and local entities; (C) in coordination with the Task Force on New Americans established under section 2521 of the Border Security, Economic Opportunity, and Immigration Modernization Act——

(i) advise the Director of U.S. Citizenship and Immigration Services, the Secretary of Homeland Security, and the Domestic Policy Council; (ii) receive and review reports on the integration of immigrants and their young children and progress in meeting integration goals and indicators; and (iii) make recommendations to the Secretary of Homeland Security concerning the integration of immigrants and their young children.

### SEC. 2521. TASK FORCE ON NEW AMERICANS.

(a) **IN GENERAL.**—The Secretary shall establish a Task Force on New Americans.

(b) **FUNCTIONS.**—The Task Force shall—

1. **Meetings; Functions.**—The Task Force shall—

1. **Meet at the call of the Chair; and (b) perform such functions as the Secretary may determine.

(c) **COORDINATED RESPONSE.**—The Task Force shall work with executive branch agencies——

1. **to provide a coordinated Federal response to issues that impact the lives of new immigrants and receiving communities, including——

(A) access to youth and adult education programming; (B) workforce training; (C) health care policy; (D) access to naturalization; and (E) community development challenges; and (2) to ensure that Federal programs and policies adequately address such impacts.

(d) **LIAISONS.**—Members of the Task Force shall serve as liaisons to their respective agencies to ensure the quality and timeliness of their agency's participation in activities of the Task Force, including——

1. **migrant integration goals and indicators; (2) to advise and assist the Federal Government in identifying and fostering policies to carry out the policies and goals established under this chapter.

### SEC. 2522. PURPOSE.

The purposes of the Task Force are——

(A) to establish a coordinated Federal program and policy response to immigrant integration issues; and (B) to carry out such other functions and activities as the Secretary may assign.

### SEC. 2523. EFFECTIVE DATE.

The amendments made by subsections (a) and (b) shall take effect on the date that is 1 year after the date of the enactment of this Act.

### SEC. 2524. ESTABLISHMENT OF TASK FORCE ON NEW AMERICANS.

The purposes of the Task Force are——

(A) to provide recommendations to the Domestic Policy Council and the Secretary on the effects of pending legislation and executive branch policy proposals; (B) to carry out such other functions and activities as the Secretary may assign.

### SEC. 2525. USE OF REVENUE FROM Sale OF PROPERTIES.

The United States Civic Foundation shall——

(A) use any revenue from the sale of Federal, State, and local real or personal property made to the Foundation.

### SEC. 2526. USE OF GIFT, DEVISE, OR BEQUEST.

The United States Civic Foundation may spend any gift, devise, or bequest of real or personal property donated to the Foundation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

### SEC. 2527. FUNDING TO SUPPORT NEW IMMIGRANTS.

The United States Civic Foundation shall——

(A) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation.

(b) **GIFTS TO OFFICE OF CITIZENSHIP AND NEW AMERICANS.**—The Office may accept gifts to support programs and activities of special importance to new immigrants and receiving communities.

### CHAPTER 2—PUBLIC-PRIVATE PARTNERSHIP

**SEC. 2531. ESTABLISHMENT OF UNITED STATES CITIZENSHIP FOUNDATION.**

The Secretary, acting through the Director of U.S. Citizenship and Immigration Services, is authorized to establish a nonprofit corporation or a not-for-profit, public benefit, 501(c)(3) entity known as the "United States Citizenship Foundation".

### SEC. 2532. FUNDING.

The United States Citizenship Foundation shall——

(A) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property donated to the Foundation.
gits from the Foundation to support the functions of the Office.

SEC. 2533. PURPOSES.

The purposes of the Foundation are—
(1) to establish local community programs for lawful permanent residents;
(2) to provide direct assistance for aliens seeking provisional immigrant status, legal permanent foreign-born residents, or naturalization as a United States citizen; and
(3) to coordinate immigrant integration with State and local entities.

SEC. 2534. AUTHORIZED ACTIVITIES.

The Foundation shall carry out its purpose by—
(1) making United States citizenship instruction and naturalization application services accessible to low-income and other underserved lawful permanent resident populations;
(2) developing, identifying, and sharing best practices in United States citizenship preparation;
(3) supporting innovative and creative solutions to barriers faced by those seeking naturalization;
(4) increasing the use of, and access to, technology in United States citizenship preparation programs;
(5) engaging receiving communities in the United States citizenship and civic integration process;
(6) administering the New Citizens Award Program to recognize, in each calendar year, not more than 10 United States citizens who—
(A) have made outstanding contributions to the United States; and
(B) have been naturalized during the 10-year period ending on the date of such recognition;
(7) fostering public education and awareness;
(8) coordinating its immigrant integration efforts with the Office;
(9) awarding grants to eligible public or private nonprofit organizations under section 2537; and
(10) awarding grants to State and local governments under section 2538.

SEC. 2535. COUNCIL OF DIRECTORS.

(a) MEMBERS.—To the extent consistent with section 501 of the Internal Revenue Code of 1986, the Foundation shall have a Council of Directors, which shall be comprised of—
(1) the Director of U.S. Citizenship and Immigration Services;
(2) the Chief of the Office of Citizenship and New Americans; and
(3) 10 directors, appointed by the ex-officio directors designated in paragraphs (1) and (2), from national community-based organizations that promote and assist permanent residents with naturalization.

(b) APPOINTMENT OF EXECUTIVE DIRECTOR.—
The USCFC Council shall appoint an Executive Director, who shall oversee the day-to-day operations of the Foundation.

SEC. 2536. POWERS.

The Executive Director is authorized to carry out the purposes set forth in section 2533 on behalf of the Foundation by—
(1) accepting, holding, administering, investing, and spending any gift, devise, or bequest of real or personal property made to the Foundation;
(2) entering into contracts and other financial assistance agreements with individuals, public or private organizations, professional societies, and government agencies to carry out the functions of the Foundation;
(3) entering into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to carry out the activities of the Foundation; and
(4) charging such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

SEC. 2537. INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.

(a) AUTHORIZATION.—The Secretary, acting through the Director of U.S. Citizenship and Immigration Services, may award Initial Entry, Adjustment, and Citizenship Assistance grants to eligible public or private, non-profit organizations.

(b) USE OF GRANT FUNDS.—TEC grants shall be used for the design and implementation of programs that provide direct assistance, within the scope of the authorized practice of immigration law—
(1) to aliens who are preparing an initial application for registered provisional immigrant status under section 245b of the Immigration and Nationality Act and to aliens who are preparing an initial application for blue card status under section 221i, including assisting applicants in—
(A) screening to assess prospective applicants' potential eligibility or lack of eligibility;
(B) completing applications;
(C) gathering proof of identification, employment, residence, and family status;
(D) gathering proof of relationships of eligible family members;
(E) applying for any waivers for which applicants and qualifying family members may be eligible; and
(F) any other assistance that the Secretary or grantee considers useful to aliens who are interested in applying for registered provisional immigrant status;
(2) to aliens seeking to adjust their status under section 245, 245b, 245c, or 245f of the Immigration and Nationality Act;
(3) to legal permanent residents seeking to become naturalized United States citizens; and
(4) to applicants on—
(A) the rights and responsibilities of United States citizenship;
(B) civics-based English as a second language;
(C) civics, with a special emphasis on common values and traditions of Americans, including an understanding of the history of the United States and the principles of the Constitution; and
(D) applying United States citizenship.

SEC. 2538. PILOT PROGRAM TO PROMOTE IMMIGRANT INTEGRATION AT STATE AND LOCAL LEVELS.

(a) GRANTS TOUCHSTONE.—The Chief shall establish a pilot program through which the Chief may award grants, on a competitive basis, to States and local governments or other qualifying entities, in collaboration with State and local governments—
(1) to establish New Immigrant Councils to carry out programs to integrate new immigrants; or
(2) to carry out programs to integrate new immigrants.

(b) APPLICATION.—A State or local government desiring a grant under this section shall submit an application to the Chief at such time, in such manner, and containing such information as the Chief may reasonably require, including—
(1) a proposal to meet an objective or combination of objectives set forth in subsection (d); and
(2) the number of new immigrants in the applicant's jurisdiction; and
(3) a description of challenges in introducing and integrating new immigrants into the State or local community.

(c) PRIORITY.—In awarding grants under this section, the Chief shall give priority to States and local governments or other qualifying entities that—
(1) use matching funds from non-Federal sources, which may include in-kind contributions;
(2) demonstrate collaboration with public and private entities to achieve the goals of the comprehensive plan described pursuant to subsection (d); and
(3) are in one of the 10 States with the highest rate of foreign-born residents;

(d) AUTHORIZED ACTIVITIES.—A grant awarded under this subsection may be used—
(1) to form a New Immigrant Council, which shall—
(A) consist of between 15 and 19 individuals, inclusive, from the State, local government, or qualifying organization;
(B) include, to the extent practicable, representatives from—
(i) business;
(ii) faith-based organizations;
(iii) civic organizations;
(iv) philanthropic organizations;
(v) nonprofit organizations, including those with legal and advocacy experience working with immigrant communities;
(vi) key education stakeholders, such as State educational agencies, local educational agencies, community colleges, and teachers;
(vii) State adult education offices;
(viii) State or local public libraries; and
(ix) State or local governments; and
(C) meet not less frequently than once each quarter to provide subgrants to local communities, city governments, municipalities, nonprofit organizations (including veterans' and patriotic organizations), or other qualifying entities;
(2) to develop, implement, expand, or enhance a comprehensive plan to introduce and integrate new immigrants into the State by—
(A) improving English language skills;
(B) engaging caretakers with limited English proficiency in their child's education through interactive parent and child literacy activities;
(C) improving and expanding access to workforce training programs;
(D) teaching United States history, civics education, citizenship rights, and responsibilities;
(E) improving an understanding of the form of government and history of the United States and the principles of the Constitution;
(F) improving financial literacy; and
(G) focusing on other key areas of importance to integration in our society; and
(3) to engage receiving communities in the citizenship and civic integration process by—
(A) increasing local service capacity;
(B) building meaningful connections between newer immigrants and long-time residents;
(C) communicating the contributions of receiving communities and new immigrants; and
(D) engaging leaders from all sectors of the community.

(e) REPORTING AND EVALUATION.—

(1) ANNUAL REPORT.—Each grant recipient shall submit an annual report to the Office that describes—
(A) the activities undertaken by the grant recipient, including how such activities meet the goals of the Office, the Foundation, and the comprehensive plan described in subsection (d); and
(B) the geographic areas being served;
(C) the number of immigrants in such areas; and

(D) the primary languages spoken in such areas.

(2) ANNUAL EVALUATION.—The Chief shall conduct an annual evaluation of the grant program established under this section—

(A) to assess and improve the effectiveness of such requirements;

(B) to assess the future needs of immigrants and of State and local governments related to immigrants; and

(C) to ensure that subgrantees and subgrantees are acting within the scope and purpose of this subchapter.

SEC. 2539. NATURALIZATION CEREMONIES.

(a) General.—The Chief, in coordination 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.

(b) Venues.—In developing the strategy under subsection (a), the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(c) Reporting Requirement.—The Secretary shall annually submit a report to Congress that contains—

(1) the content of the strategy developed under subsection (a); and

(2) the progress made towards the implementation of such strategy.

CHAPTER 3—FUNDING

SEC. 2541. AUTHORIZATION OF APPROPRIATIONS.

(a) Office of Citizenship and New Americans.—In addition to any amounts otherwise made available to the Office, there are authorized to be appropriated to carry out the functions described in section 461(t)(2) of the Homeland Security Act of 2002 (8 U.S.C. 271(t)(2)), as amended by section 2511(b)—

(1) $100,000,000 for the 5-year period ending on September 30, 2018; and

(2) such sums as may be necessary for fiscal year 2019 and subsequent fiscal years.

(b) Grant Programs.—There are authorized to be appropriated to implement the grant programs authorized under sections 2537 and 2538, and to implement the strategy under section 2539—

(1) $100,000,000 for the 5-year period ending on September 30, 2018; and

(2) such sums as may be necessary for fiscal year 2019 and subsequent fiscal years.

CHAPTER 4—REDUCE BARRIERS TO NATURALIZATION

SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SENIOR NEW AMERICANS.

Section 312 (8 U.S.C. 1432) is amended by striking subsection (b) and inserting the following:

“(b) The requirements under subsection (a) shall not apply to any person who—

(1) is unable to comply with such requirements because of physical or mental disability, including developmental or intellectual disability; or

(2) on the date on which the person’s application for naturalization is filed under section 334—

(A) is older than 65 years of age; and

(B) has been living in the United States for periods totaling at least 15 years after being lawfully admitted for permanent residence;...

SEC. 2553. PERMISSIBLE USE OF ASSISTED HOUSING FOR IMMIGRANTS.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “; or” and inserting a semicolon;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following new paragraph:

“(7) a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)); or”;

and

(2) in subsection (b)—

(A) in paragraph (1), by striking “other than a qualified alien described in sections 312(a), 316(a)(3), and subsections (b)(3), (4), and (d)” and inserting “other than a qualified alien described in sections 312(a) or 316(a)(3), and subsections (b)(3), (4), and (d)”;

(B) in paragraph (2), by striking “the Secretary may waive, on a case-by-case basis, the immigration and naturalization requirements under section 334—

(1) is older than 60 years of age; and

(2) has been living in the United States for periods totaling at least 15 years after being lawfully admitted for permanent residence.”;

SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REGULAR INTERNET ACCESS.

(a) Electronic Filing Not Required.—

(1) In General.—The Secretary may not require that an applicant or petitioner for permanent residence or citizenship of the United States use an electronic method to file any application, or access to a customer account.

(2) Sunset Date.—This subsection shall cease to be effective on October 1, 2020.

(b) Notification Requirement.—Beginning in Fiscal Year 2023, the Secretary may not require that an applicant or petitioner for permanent residence or citizenship of the United States use an electronic method to file any application or access to a customer account unless the Secretary notifies the Committee on the Judiciary of the Senate and the Committees of the House of Representatives of such requirement not later than 30 days before the effective date of such requirement.

SEC. 2555. TREATMENT OF CERTAIN PERSONS AS HAVING SATISFIED ENGLISH AND CIVICS, GOOD MORAL CHARACTER, AND HOMEOWNERSHIP REQUIREMENTS.

(a) Immigration and Nationality Act.—The Immigration and Nationality Act is amended by inserting after section 329A (8 U.S.C. 1440) the following new section:

“SEC. 329B. PERSONS WHO HAVE RECEIVED AN AWARD FOR ENGAGEMENT IN ACTIVE COMBAT OR ACTIVE PARTICIPATION IN COMBAT.

“(1) in General.—For purposes of naturalization and continuation of citizenship under the following provisions of law, a person who has received an award described in section (b) shall be treated—

“(A) as having satisfied the requirements in sections 312(a), 316(a)(3), and subsections (b)(3), (4), and (e) of section 322; and

“(B) except as provided in paragraph (2), under sections 328 and 329, as having served honorably in the Armed Forces of the United States; and

“(C) as having satisfied the requirements under section 328(f) or 329(c) if the other requirements of such section are met.

“(B) Application.—This section shall apply with respect to the following awards from the Armed Forces of the United States:

“(1) The Combat Infantryman Badge from the Army.

“(2) The Combat Medical Badge from the Army.

“(3) The Combat Action Badge from the Navy, the Marine Corps, or the Coast Guard.

"(6) Any other award that the Secretary of Defense determines to be an equivalent award for engagement in active combat or active combat in combat.

"(b) CLERICAL AMENDMENT.—The table of contents of such Act (8 U.S.C. 1321 et seq.) is amended by inserting after the item relating to section 330B, the following:

"Sec. 330B. Persons who have received an award for engagement in active combat or active participation in combat.

"TITLE II—INTERIOR ENFORCEMENT

Subtitle A—Employment Verification System

Sec. 201. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

"(a) I N GENERAL.—Section 274A (8 U.S.C. 1324a) to read as follows:

"(A) IN GENERAL.—It is unlawful for an employer...

"(B) EXCEPTION FOR CERTAIN EMPLOYERS.—An employer who...

"(C) USE OF STATE EMPLOYMENT AGENCY...

"(D) E M PLOYMENT AUTHORIZED STATUS.—

"(E) USE OF STATE EMPLOYMENT AGENCY...

"(F) VIOLATIONS OF Paragraph (1)(A)...

"(G) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

"(H) SECRETARY.—Except as otherwise specifically provided, the term 'Secretary' means the Secretary of Homeland Security.

"(I) SYSTEM.—The term 'System'

"(J) E M PLOYMENT AUTHORIZED STATUS.—

"(K) UNAUTHORIZED ALIEN.—

"(L) WORKPLACE RIGHTS.—

"(M) DOCUMENT VERIFICATION REQUIREMENTS.—

"(N) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

"(O) EXAMINATION BY EMPLOYER.—

"(P) PUBLICATION OF DOCUMENTS.—The Secretary shall publish a picture of each document specified in subparagraphs (C) and (E) on the U.S. Citizenship and Immigration Services website.

"(Q) REQUIREMENTS.—

"(R) FORM.—The form referred to in subparagraph (A)(i)(I)

"(S) REQUIREMENTS.—

"(T) REQUIREMENTS.—

"(U) REQUIREMENTS.—

"(V) REQUIREMENTS.—

"(W) REQUIREMENTS.—

"(X) REQUIREMENTS.—

"(Y) REQUIREMENTS.—

"(Z) REQUIREMENTS.—
(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital pin code signature, according to standards prescribed by the Secretary; and

(iii) COMPLIANCE.—An employer has complied with the requirements under this paragraph with respect to an employee if the employee meets the requirements under paragraphs (i) and (ii) of subparagraph (A)(i) if—

(I) the employer has, in good faith, followed applicable regulations and any written processes or instructions provided by the Secretary; and

(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled ‘An Act to regulate the issue and validity of passports, and for other purposes,’ approved July 3, 1926 (22 U.S.C. 211a).

(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual’s employment authorized status, as designated by the Secretary, if the document contains the individual’s photograph, name, date of birth, gender, and driver’s license or identification card number; and

(iii) An enhanced driver’s license or identification card which specifies on its face that the card is issued to an individual pursuant to the Secretary’s authority under the Act entitled ‘An Act to regulate the issue and validity of driver’s licenses, and for other purposes,’ approved July 3, 1926 (22 U.S.C. 211a).

(iv) Otherwise authorized by the Secretary to be hired for such employment.

(i) USE REQUIREMENT.—An employer hiring an individual who has a covered identity document shall verify the identity of such individual using the photo tool described in subsection (I)(ii).

(ii) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document to the employee to a photo maintained by a U.S. Citizenship and Immigration Services database.

(iv) ADDITIONAL SECURITY MEASURES.—(A) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

(I) may prohibit or restrict the use of such document or class of documents for purposes of this subsection; and

(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

(B) AUTHORITY TO REQUIRE USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, or an identification document that may include review of identity documents or background screening verification techniques using publicly available information,

(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment; and

(ii) shall publish a description of any such document or class of documents on the U.S. Citizenship and Immigration Services website; and

(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

(ii) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

(I) a citizen of the United States;

(ii) an alien lawfully admitted for permanent residence;

(iii) an alien who has employment authorization, status, or permission to hire; or

(iv) otherwise authorized by the Secretary to be hired for such employment;
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(a) In general—(1) Prohibition on discrimination.—An employer shall use the procedures for documentation under this subsection to directly or indirectly authorize the issuance, use, or establishment of a national identification card, or to otherwise require the use of such a card for any purpose.

(b) Establishment.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

(c) Monitoring.—The Secretary shall monitor the implementation of this section, and any changes thereto, and shall report to the Congress on the progress of such implementation.

(d) Employment verification system.—The Secretary shall establish the Employment Verification System, which shall include a national identification card, a means for employers to verify the identity and employment authorization of individuals, and a means for the Secretary to verify the identity and employment authorization of individuals.

(e) Administrative enforcement.—The Secretary shall enforce this section through administrative means, including the imposition of civil penalties and the revocation of licenses or certifications.

(f) Criminal penalties.—Any person who violates this section shall be subject to criminal penalties, including imprisonment and fines.

(g) Voluntary participation.—The Secretary may permit any employer that is not required to participate in the System to comply with the requirements of this section through voluntary participation.

(h) Federal contractors.—Federal contractors shall participate in the System as required by this section.

(i) Federal government.—Except as provided in subparagraph (A), the Federal government shall participate in the System as required by this section.

(j) Trade secrets.—Nothing in this section shall be construed to require an employer to disclose any information to the Secretary that is considered a trade secret.

(k) Limitation on use of System.—Nothing in this section shall be construed to permit the use of the System for any purpose other than that for which it was established.

(l) Limitation on use of information.—Nothing in this section shall be construed to permit the use of information obtained from the System for any purpose other than that for which it was established.

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( tttt) Limitation on use of information.—Nothing in this section shall be construed to permit the use of information obtained from the System for any purpose other than that for which it was established.
"(ii) Use evidence.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law, of evidence relating to the employer's failure to comply with requirements of the System.

(4) Procedures for participants in the system.

"(a) In general.—An employer participating in the System shall register such participation with the Secretary and, when hiring an individual and providing employment in the United States, shall comply with the following:

(1) Registration of employers.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the Secretary.

(2) Identification of employers.—The Secretary shall inform individuals hired for employment that the Secretary may require to determine the identity and employment authorized status. Within the System, or on such other schedule as the Secretary may prescribe.

(3) Determination of identity and employment authorized status.—

(II) The employer shall inform individuals hired for employment that the Secretary may require to determine the identity and employment authorized status.

(a)INITIAL RESPONSE.—The employer shall use the System to confirm the individual's identity or employment eligibility during—

(I) the period beginning on the date on which employment begins; or

(ii) an appropriate code indicating such confirmation or such further action notice.

(ii) ALTERNATIVE DEADLINE.—If the System is unable to provide an appropriate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or nonconfirmation notice not later than 3 business days after the initial inquiry.

(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

(1) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall, in person or through the System, under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the employer refuses to provide the further action notice, or acknowledges in writing that the individual will not contest the further action notice under paragraph (ii) and the Secretary shall not specify the Secretary in such manner as the Secretary may specify.

(ii) Contest.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency, the Secretary, or appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

(iv) Reexamination.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a nonconfirmation where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not be correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.
the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

"(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, in writing, about the administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7) in writing, or in such other manner as the Secretary may prescribe.

"(D) TERMINATION OF NONCONFIRMATION.—

"(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (ii), an employer that has received a nonconfirmation may not continue to employ an individual after receiving notice from the employer. If the individual refuses to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

"(ii) TERMINATION OF Continued EMPLOYMENT.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed under clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

"(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual’s employment under this subparagraph prior to the resolution of the administrative appeal. If the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

"(iv) WEEKLY REPORT.—The Director of the System shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

"(I) the name of such individual;

"(II) his or her social security number or alien registration number identified by the Secretary or the Commissioner;

"(III) the name and contact information for his or her current employer; and

"(IV) any other critical information that the Assistant Secretary determines to be appropriate.

"(E) OBIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

"(I) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section. If such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System, failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

"(II) ACTION BY INDIVIDUALS.—

"(I) IN GENERAL.—Individuals believing their employment eligibility to contact the individual who seeks to verify the individual’s identity or employment authorization status, the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may, if the Secretary determines that the modification is necessary to ensure that the System functions reliably determines the identity and employment authorization status of employees and maintains existing protections against misuse, discrimination, fraud, and identity theft—

"(i) the information that shall be provided to the Secretary or Commissioner to facilitate the functioning, accuracy, and fairness of the System;

"(ii) to prevent misuse, discrimination, fraud, or identity theft in the use of the System;

"(iii) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 1366(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

"(II) NOTICE.—The regulations issued under subparagraph (F) shall be coordinated with the public and private organizations for outreach and assessment activities under the campaign.

"(III) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for each of the fiscal years 2014 through 2016.

"(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use of the System and the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, shall establish a secure self-certification procedure to permit an individual who seeks to verify the individual’s employment eligibility to contact the individual who seeks to verify the individual’s employment eligibility to contact the individual who seeks to verify the individual’s employment eligibility to contact the individual who seeks to verify the individual’s employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

"(I) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

"(J) ADMINISTRATIVE APPEAL.—

"(I) IN GENERAL.—A nonindividual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under paragraph (6)(B).

"(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal. The nonconfirmation resulted after the individual acknowledged receipt of the further action
notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner determines that the administrative appeal is frivolous or filed for purposes of delay.

(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be considered within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

(D) PREPONDERANCE OF EVIDENCE.—Administrative appeal under this paragraph shall be limited to whether a nonconfirmation may be supported by a preponderance of the evidence.

(E) DAMAGES, FEES, AND COSTS.—No money damages, fees or costs may be awarded in an administrative appeal process under this paragraph.

(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination of the Secretary or the Commissioner, the administrative law judge shall review the final determination of the Secretary or the Commissioner.

(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the employer's action was frivolous or filed for purposes of delay.

(C) SERVICE.—The respondent to the complaint may, within 10 business days after service by the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6), in addition to serving the respondent, the plaintiff shall serve the Attorney General.

(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

(I) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

(II) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

(i) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

(ii) adduce evidence at a hearing;

(iii) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

(iv) resolve claims of identity theft and to extend the appeal period for good cause adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing of the issues involved;

(v) subpoena.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena. Any person refused to obey such an order may be punished by such court as a contempt of such court.

(vi) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

(8) MANAGEMENT OF THE SYSTEM.—

(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the system, which shall—

(i) respond to inquiries made by employers at any time through the Internet, or such other means as the Secretary may specify; and

(ii) provide appropriate notification directly to employers registered with the System of all changes made by the Secretary.

(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

(i) to maximize its reliability and ease of use by employers consistent with protecting the privacy and security of the underlying information, and ensuring full notice of such use to employees;

(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register times when the system is unable to receive inquiries;

(iv) to maintain appropriate administrative, technical, and physical safeguards to protect against unauthorized access, misuse of personal information, misuse by employers and employees, and discrimination;

(v) to require regularly scheduled refresh training of all users of the System to ensure compliance with all procedures;

(vi) to allow for auditing of the use of the System to detect, monitor, and prevent fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

(IV) to audit documents and information submitted by employers to employees, including verification and direct notification to employees of any violation of its obligations under the System; and

(V) to provide appropriate notification to employers and employees of changes made by the Secretary; and

(VI) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

(VII) to confirm electronically the issuance of the employment authorization or identity document and—

(i) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee;

(ii) if a photograph is not available from the issuer, to confirm the authenticity of the document using such alternative procedures as the Secretary may specify; and

(ix) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary.
"(C) SAFEGUARDS TO THE SYSTEM.—

(1) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System.

(2) DETERMINATION OF ERROR RATE.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.

(3) ACCURACY AUDITS.—

(I) IN GENERAL.—Not later than November 30 of each fiscal year, the Inspector General of the Department of Homeland Security shall submit to the Secretary, with a copy to the Chairwoman and the ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate and the Chairwoman and ranking member of the Committee on Oversight and Governmental Affairs of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.

(II) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular privacy audits of the policies and procedures established under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.

(IV) DENIALS.—(x) IN GENERAL.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.

(V) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary and the Commissioner shall establish a program that provides a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

(VI) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term ‘authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with authorization verification on behalf of an employer.

(VIII) AVAILABILITY OF FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

(VI) RECORDS SECURITY PROGRAM.—An employer of record who has not previously been penalized under paragraph (1) for each first-time violation by an employer, the Secretary may assess a penalty of not more than $20,000 for each first-time violation by an employer.

(VII) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud.

(VIII) MONITORING AND COMPLIANCE UNIT.—The Secretary shall establish or designate a program and comply with the requirements to detect and reduce identity fraud and other misuse of the System.

(IV) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

(II) MONITORING AND COMPLIANCE UNIT.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

(F) GRANTS TO STATES.—(I) IN GENERAL.—The Secretary shall create and administer a grant program to help participating States establish a program that provides a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

(II) USE OF INFORMATION.—The Secretary shall use the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to section 2721(c)(2) of title 2 of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

(J) DESTRUCTION OF PAPERS.—The Secretary shall establish or designate a program that provides a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

(K) DETERMINATION OF ERROR RATE.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.

(L) AUDIT REQUIREMENTS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under subparagraphs (A) and (B) of paragraph (1). The report shall describe in detail the methodology employed for purposes of the review and recommendations for how error rates may be reduced.
matches the Secretary of State’s records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to this subsection.

(8) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each 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 the required periods, including a separate assessment of the accuracy rate for naturalized United States citizens, nationals of the United States, and aliens.

(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations on corrections.

(v) The recommendations of the Comptroller General regarding System improvements.

(vi) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.

(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the appeals process and receiving a nonconfirmation.

(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts on hiring employers.

(9) COMPLIANCE.—

(i) In general.—The Secretary shall establish a Joint Employment Fraud Task Force consisting of, at a minimum—

(a) the System’s compliance personnel;

(b) the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice;

(c) personnel of the Office for Civil Rights and Civil Liberties of the Department; and

(d) personnel of Office Inspector General of the Social Security Administration.

(ii) Roles and responsibilities.—The Joint Employment Fraud Task Force shall, at a minimum:

(A) establish a Joint Employment Fraud Task Force Advisory Group consisting of, at a minimum, and as the Secretary determines to be appropriate:

(i) personnel of the Office for Civil Rights and Civil Liberties; and

(ii) personnel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice.

(B) review and make recommendations to the Secretary on the following:

(i) the System to provide a confirmation or further action notices;

(ii) the System to provide a confirmation or further action notices of a contested further action notice;

(iii) an annual report on the System’s performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of the accuracy rate for naturalized United States citizens, nationals of the United States, and aliens.

(iii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

(iv) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

(v) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations on corrections.

(vi) The recommendations of the Comptroller General regarding System improvements.

(vii) An assessment of the frequency and magnitude of changes made to the System and the impact on the ability for employers to comply in good faith.

(viii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the appeals process and receiving a nonconfirmation.

(ix) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts on hiring employers.

(x) COMPLIANCE.—

(i) In general.—The Secretary shall establish procedures—

(A) for individuals and entities to file complaints respecting potential violations of this subsection;

(B) for the investigation of those complaints which the Secretary deems appropriate to investigate; and

(C) for the publication to the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice of potential violations of section 274B.

(ii) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and proceedings under this subsection—

(A) immigration officers shall have reasonable access to examine evidence of the employer being investigated;

(B) immigration officers designated by the Secretary and administrative law judges, and other persons authorized to conduct proceedings under this section, may compel by subpoena the attendance of relevant witnesses and the production of evidence at any designated place in an investigation or case under this subsection. In case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt, Failure to comply with the subpoena is subject to further penalties, including further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E).

(C) The Secretary, in cooperation with the Commissioner and Attorney General, and in consultation with the Commissioner of Immigration and Naturalization, shall establish a Joint Employment Fraud Task Force consisting of, at a minimum—

(i) the System’s compliance personnel;

(ii) immigration officers designated by the Secretary and administrative law judges;

(iii) personnel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice;

(iv) personnel of the Office for Civil Rights and Civil Liberties of the Department; and

(v) personnel of Office Inspector General of the Social Security Administration.

(3) COMPLIANCE PROCEDURES.—

(A) PRE-PENALTY NOTICE.—If the Secretary reasonably believes that there has been a civil violation of this section in the previous 3 years, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt, or in a case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt, Failure to comply with the subpoena is subject to further penalties, including further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E).

(B) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and proceedings under this subsection—

(A) immigration officers shall have reasonable access to examine evidence of the employer being investigated;

(B) immigration officers designated by the Secretary and administrative law judges, and other persons authorized to conduct proceedings under this section, may compel by subpoena the attendance of relevant witnesses and the production of evidence at any designated place in an investigation or case under this subsection. In case of refusal to fully comply with a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with the subpoena, and any failure to obey such order may be punished by the court as contempt, Failure to comply with the subpoena is subject to further penalties, including further fines and the voiding of any mitigation of penalties or termination of proceedings under paragraph (4)(E).

(C) The Secretary, in cooperation with the Commissioner and Attorney General, and in consultation with the Commissioner of Immigration and Naturalization, shall establish a Joint Employment Fraud Task Force consisting of, at a minimum—

(i) the System’s compliance personnel;

(ii) immigration officers designated by the Secretary and administrative law judges;

(iii) personnel of the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice;

(iv) personnel of the Office for Civil Rights and Civil Liberties of the Department; and

(v) personnel of Office Inspector General of the Social Security Administration.

(4) EMPLOYER’S RESPONSE.—Whenever any employer receives written pre-penalty notice of a fine or other penalty in accordance with subparagraph (A), the employer may, within 60 days from receipt of such notice, file with the Secretary a written pre-penalty notice. The response may include any relevant evidence or proffer of evidence that the employer believes to be relevant to whether the employer violated this section and whether, if so, the penalty should be mitigated, and shall be filed and considered in accordance with procedures to be established by the Secretary.

(5) RIGHT TO A HEARING.—Before issuance of an order imposing a penalty on any employer, person, or entity, the employer, person, or entity shall be entitled to a hearing before an administrative law judge, if requested by the employer, person, or entity, and the hearing shall be held at the nearest location practicable to the place where the employer, person, or entity resides or of the place where the alleged violation occurred.

(A) ISSUE OF ORDERS.—If no hearing is so requested, the Secretary’s imposition of the order shall constitute a final and unappealable order. If a hearing is requested and the administrative law judge determines, upon clear and convincing evidence received, that there was a violation, the administrative law judge shall issue the final determination with a written order.

(B) ISSUE OF ORDERS.—If no hearing is so requested, the Secretary’s imposition of the order shall constitute a final and unappealable order. If a hearing is requested and the administrative law judge determines, upon clear and convincing evidence received, that there was a violation, the administrative law judge shall issue the final determination with a written order.

(C) The penalty shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any other charges for any penalty. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any other charges for any penalty. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any other charges for any penalty. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any other charges for any penalty. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of paragraph (A) and any other charges for any penalty.
(C) Other Penalties.—The Secretary may promulgate by regulation pursuant to subparagraph (B) of section (a)(1)(B), other than a minor or inadvertent failure, as determined by the Secretary, shall pay a civil penalty of—

(i) not less than $2,000 and not more than $8,000 for each violation; and

(ii) if an employer has previously been fined under this paragraph, not less than $1,000 and not more than $4,000 for each violation; and

(iii) if an employer has previously been fined more than once under this paragraph, not less than $500 and not more than $2,000 for each violation.

(D) Other Penalties.—The Secretary may promulgate by regulation pursuant to subparagraph (B) of section (a)(1)(B), other than a minor or inadvertent failure, as determined by the Secretary, shall pay a civil penalty of—

(i) not less than $2,000 and not more than $8,000 for each violation; and

(ii) if an employer has previously been fined more than once under this paragraph, not less than $1,000 and not more than $4,000 for each violation; and

(iii) if an employer has previously been fined more than once under this paragraph, not less than $500 and not more than $2,000 for each violation.

(E) Mitigation.—The Secretary or, if an employer requests a hearing, the administrative law judge, is authorized, upon such terms and conditions as the Secretary or administrative law judge deems reasonable and just and in accordance with such procedures as the Secretary may establish or any procedures established governing the administrative law judge’s assessment of penalties, 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, and the nature and extent of any violation, or the implementation of a program to come into compliance with such requirements.

(F) Extension of Deadline.—At the request of the employer, the Secretary may extend the 60-day deadline for good cause.

(G) Standards or Methods.—The Secretary may promulgate by regulation pursuant to subparagraph (B) of section (a)(1)(B), other than a minor or inadvertent failure, as determined by the Secretary, shall pay a civil penalty of—

(i) not less than $2,000 and not more than $8,000 for each violation; and

(ii) if an employer has previously been fined more than once under this paragraph, not less than $1,000 and not more than $4,000 for each violation; and

(iii) if an employer has previously been fined more than once under this paragraph, not less than $500 and not more than $2,000 for each violation.

(H) Requirement for Review of a Final Determination.—With respect to judicial review of a final determination or penalty order issued under paragraph (3)(D), the following requirements apply:

(A) Deadline.—The petition for review must be filed no later than 30 days after the date of the final determination or penalty order.

(B) Venue and Forms.—The petition for review shall be filed with the court of appeals for the judicial circuit where the employer’s principal place of business was located when the final determination or penalty order was made. The record and briefs due to be filed with the court shall review the proceeding on a typewritten or electronically filed record and briefs.

(C) Venue.—The respondent is the Secretary. In the event that the Secretary requests a hearing, the petitioner shall serve the Attorney General.

(D) Petitioner’s Brief.—The petitioner shall serve and file a brief in support of the petition with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

(E) Scope and Standard for Review.—The court of appeals shall conduct a de novo review of the administrative record on which the final determination was based and any additional evidence that the Court finds were previously unavailable at the time of the administrative hearing.

(F) Exhaustion of Administrative Remedy.—A court may not review a determination under paragraph (3)(C) only if—

(i) the petitioner has exhausted all administrative remedies available to the petitioner as of right, including any administrative remedies established by regulation, and

(ii) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

(G) Enforcement of Orders.—If the final determination issued against the employer under this subsection is not subjected to review as provided in this paragraph, the Attorney General, upon request by the Secretary, may bring a civil action to enforce compliance with the order in any appropriate district court of the United States. The court, on a proper showing, shall issue a temporary restraining order or a preliminary or permanent injunction requiring the employer to comply with the final determination issued against that employer under this subsection. In any such civil action, the validity and appropriateness of the final determination shall not be subject to review.

(H) Creation of Lien.—If any employer who is liable for a fee or penalty under this subsection neglects or refuses to pay such liability after demand and fails to file a petition for review (if applicable) as provided in paragraph (6), the lien in favor of the United States on all property and rights to property, whether real or personal, belonging to such employer, shall be a lien in favor of the United States on all property and rights to property, whether real or personal, belonging to such employer. If a petition for review is not provided in paragraph (6), the lien shall arise upon the entry of a final judgment by the court. The lien continues for 20 years or until the liability is satisfied, remitted, set aside, or terminated.

(I) Filing Notice of Lien.—The Secretary or, if an employer requests a hearing, the administrative law judge, is authorized, upon such terms and conditions as the Secretary or administrative law judge deems reasonable and just and in accordance with such procedures as the Secretary may establish or any procedures established governing the administrative law judge’s assessment of penalties, 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, and the nature and extent of any violation, or the implementation of a program to come into compliance with such requirements.

(J) Place for Filing.—The notice of a lien referred to in subparagraph (I) shall be filed as described in 1 of the following:

(1) Under State Laws.—(i) Real Property.—In the case of real property located in 1 office or other governmental subdivision, as designated by the laws of such State, in
which the property subject to the lien is situated.

(2) PERSONAL PROPERTY.—In the case of personal property, whether tangible or intangible, located within the State, or within a county, or other governmental subdivision, as designated by the laws of such State, in which the property subject to the lien is situated, the State law may transforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by such State.

(ii) WITH CLERK OF DISTRICT COURT.—In the office of the clerk of the United States district court, or of any judicial district in which the property subject to the lien is situated, whenever the State has not by law designated 1 office which meets the requirements of clause (i).

(iii) WITH RECORDER OF DEEDS OF THE DISTRICT OF COLUMBIA.—In the office of theRecorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(B) SITUS OF PROPERTY SUBJECT TO LIEN.—For purposes of subparagraph (A), property shall be considered to be situated at its physical location.

(C) DETERMINATION OF RESIDENCE.—For purposes of subparagraph (B), the residence of or corporation or partnership shall be deemed to be the place at which the principal executive officer of the business is located, and the residence of a taxpayer whose residence is outside the United States shall be determined, and the residence of a taxpayer whose residence is outside the United States shall be considered, and the residence of a taxpayer whose residence is outside the United States shall be deemed to be in the District of Columbia.

DEFICIT OF FILING NOTICE OF LIEN.—(i) IN GENERAL.—Upon filing of a notice of lien in the manner described in this paragraph, the lien shall be valid against any purchaser, holder of a security interest, mechanic’s lien, or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6223 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid.

(ii) NOTICE OF LIEN.—The notice of lien shall be considered to be a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is otherwise validly filed, indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section.

(ii) NOTICE OF LIEN.—The provisions of section 2301(e) of title 28, United States Code, shall apply to liens filed as prescribed by this paragraph.

(E) ENFORCEMENT OF A LIEN.—A lien obtained through this paragraph shall be considered a debt as defined by section 3002 of title 28, United States Code and enforceable pursuant to chapter 176 of such title.

(9) ATTORNEY GENERAL ADJUDICATION.—The Attorney General shall have jurisdiction to adjudicate administrative proceedings under this subsection. Such proceedings shall be conducted in accordance with the requirements of section 554 of title 5, United States Code.

(10) CRIMINAL AND CIVIL PENALTIES AND INJUNCTIONS.—(1) PROHIBITION OF INDIGENCE BONDS.—It is unlawful for an employer, in the hiring of any 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 of the individual.

(2) CIVIL PENALTY.—Any employer who is determined by the Secretary to have violated paragraph (1) shall be subject to a civil penalty of $10,000 for each violation, or for 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 general fund of the Treasury.

(2) CONTRACTORS AND RECIPIENTS.—(i) CONTRACTORS AND RECIPIENTS.—For purposes of subparagraph (B), the contractor or recipient who holds a Federal contract, grant, or cooperative agreement, or reasonably may be expected to submit an offer for or be awarded a government contract is determined by the Secretary to have violated this section if the employer shall be deemed to be the government contractor or grantee for purposes of this subsection.

(2) INAPPROPRIATE LIEN.—Inadverent violations of recordkeeping or verification requirements of any other provisions of this section shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

(3) OTHER VIOLATIONS.—Nothing in this subsection shall be construed to modify or limit any remedy available to any agency or official of the Federal Government for violation of any requirements to participate in the System, as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation.

(4) PREEMPTION.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, relating to the hiring, continued employment, or status verification for employment eligibility verification purposes, or any administrative determination of liability for civil penalty by the Secretary or Attorney General shall not be reviewable in any debarment proceeding.

(5) CRIMINAL PENALTIES FOR UNLAWFUL AND ABUSIVE EMPLOYMENT.—(A) IN GENERAL.—Any person who, during any 12-month period, knowingly employs or hires, employs, recruits, or refers for a fee for employment 10 or more individuals within the United States, or exercises any control or supervision of such person—

(A) knowing that the individuals are unauthorized aliens; and

(B) under conditions that violate section 5(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(a) (relating to occupational safety and health), section 6 or 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207) (relating to minimum wages and maximum hours of employment), section 3142 of title 44, United States Code, (relating to required wage and contract contracts), or sections 6703 or 6704 of title 41, United States Code, (relating to wages on service contracts), shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(6) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL INDUSTRY.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit a report to Congress that assesses implementation of the Employment Verification System established under section 24A(d) of the Immigration and Nationality Act, as amended by subsection (a), in the agricultural industry, including the use of such System technology in agriculture industry hiring practices, and the impact on the employment verification and reverification processes to meet agriculture industry practices, and the potential liability arising under this section must be filed no later than 180 days after the date the challenged section or regulation described in subparagraph (A) or (B) of paragraph (1) becomes effective. No court shall have jurisdiction to review any challenge described in subparagraph (B) after the time period specified in this subsection expires.

(7) CRIMINAL PENALTIES AND INJUNCTIONS FOR VIOLATION OF PATTERNS OR PRACTICES.—(i) PATTERN AND PRACTICE.—Any employer who engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined under title 18, United States Code, or imprisoned for not more than $10,000 for each unauthorized alien with respect to whom such violation occurs, imprisoned for not more than 10 years for the entire pattern or practice, or both.

(ii) TERM OF IMPRISONMENT.—The maximum term of imprisonment of a person convicted of any criminal offense under the United States Code shall be increased by 5 years if the offense is committed as part of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).

(iii) JOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Secretary or the Attorney General has reasonable cause to believe that there is a pattern or practice of employment in violation of subsection (a)(1)(A) or (a)(2), 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 or Attorney General deems necessary.

(8) CONTRACTORS AND RECIPIENTS.—(A) IN GENERAL.—Any contractor or grantee, or any subcontractor, subrecipient, or any other party to a Federal contract, grant, or cooperative agreement, the lien shall be valid against any employer or party to a Federal contract, grant, or cooperative agreement in accordance with the procedures and standards and for the periods prescribed by such Federal Regulation.

(2) INAPPROPRIATE LIEN.—Inadverent violations of recordkeeping or verification requirements of any other provisions of this section shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection.

(3) OTHER VIOLATIONS.—Nothing in this subsection shall be construed to modify or limit any remedy available to any agency or official of the Federal Government for violation of any requirements to participate in the System, as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation.

(4) PREEMPTION.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, relating to the hiring, continued employment, or status verification for employment eligibility verification purposes, or any administrative determination of liability for civil penalty by the Secretary or Attorney General shall not be reviewable in any debarment proceeding.

(5) CRIMINAL PENALTIES FOR UNLAWFUL AND ABUSIVE EMPLOYMENT.—(A) IN GENERAL.—Any person who, during any 12-month period, knowingly employs or hires, employs, recruits, or refers for a fee for employment 10 or more individuals within the United States, or exercises any control or supervision of such person—

(A) knowing that the individuals are unauthorized aliens; and

(B) under conditions that violate section 5(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(a) (relating to occupational safety and health), section 6 or 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207) (relating to minimum wages and maximum hours of employment), section 3142 of title 44, United States Code, (relating to required wage and contract contracts), or sections 6703 or 6704 of title 41, United States Code, (relating to wages on service contracts), shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(6) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

REPORT ON USE OF THE SYSTEM IN THE AGRICULTURAL INDUSTRY.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall submit a report to Congress that assesses implementation of the Employment Verification System established under section 24A(d) of the Immigration and Nationality Act, as amended by subsection (a), in the agricultural industry, including the use of such System technology in agriculture industry hiring practices, and the impact on the employment verification and reverification processes to meet agriculture industry practices, and the potential liability arising under this section must be filed no later than 180 days after the date the challenged section or regulation described in subparagraph (A) or (B) of paragraph (1) becomes effective. No court shall have jurisdiction to review any challenge described in subparagraph (B) after the time period specified in this subsection expires.
the agriculture industry. Such report shall
review—
(1) the modality of access, training and
outreach, customer support, processes for furth-
ering use of the system, mechanisms for ver-
cifications for short-term workers, moni-
toring, and compliance procedures for such
system;
(2) the interaction of such System with the
process to admit nonimmigrant workers pur-
suant to section 218 or 218A of the Immi-
gation and Nationality Act (8 U.S.C. 1182 et seq.)
and policies and enforcement of the immigra-
tion laws;
(3) the collaborative use of processes of
other Federal and State agencies that inter-
sect with such industry;
(a) Report on Impact of the System on
Employers.—Not later than 18 months after
the date of the enactment of this Act, the
Secretary shall submit to Congress a report that
assesses—
(1) the implementation of the Employment
Verification System established under sec-
section 274A(d) of the Immigration and Nation-
ality Act, as amended by subsection (a), by
employers;
(2) any adverse impact on the revenues,
business practices, or profitability of em-
ployers required to use such System; and
(3) the economic impact of such System on
small businesses.
(b) Government Accountability Office Study
of the Effects of Document Re-
quirements on Employment Authorized Persons and Employers—
(1) Study.—The Comptroller General of the
United States shall carry out a study of—
(A) the effects of the documentary require-
ments of section 274A of the Immigration and
Nationality Act, as amended by subsection (a),
section 274A on employers, naturalized United
States citizens, nationals of the United
States, and individuals with employment
authorization status; and
(B) the challenges such employers, citi-
zens, nationals, or individuals may face in
obtaining the documentation required under
that section.
(2) Report.—Not later than 4 years after
the date of the enactment of this Act, the
Comptroller General shall submit to Con-
gress a report containing the findings of the
study carried out under paragraph (1). Such
report shall include, at a minimum, the fol-
lowing:
(A) an assessment of available information
regarding the number of working age nation-
als of the United States and individuals who
have employment authorized status who lack
documented status required for employment by
such section 274A.
(B) a description of the additional steps
required for individuals who have employment
authorized status and do not possess the doc-
uments required by such section 274A to ob-
tain such documents.
(C) a general assessment of the average fi-
nancial costs and challenges for employers
who have been required to participate in the
Employment Verification System estab-
lished by subsection (d) of such section 274A.
(E) a description of the barriers to individu-
als who have employment authorized status in
obtaining the documents required by such section
274A to obtain such documents.
(D) a general assessment of the average fi-
nancial costs and barriers imposed by the
executive branch of the Government.
(F) any particular challenges facing indi-
viduals who have employment authorized
status who are members of a federally recog-
nized Indian tribe in complying with the pro-
visions of such section 274A.
(e) Repeal of Pilot Programs and E-
Verify and Transition Procedures.—
(1) Repeal.—Sections 401, 402, 403, 404, and
405 of the Illegal Immigration Reform and
Immigrant Responsibility Act of 1996 (divi-
sion C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
(2) Transition Procedures.—
(A) Continuation of E-Verify Program.—
Notwithstanding the repeals made by para-
graph (1), the Secretary shall continue to op-
erate the E-Verify Program as described in
section 355 of the Immigration Reform,
Immigrant Responsibility Act of 1996 (division
C of Public Law 104–208; 8 U.S.C. 1324a
note) are repealed.
Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the feasibility, advantages, and disadvantages of including, in addition to a photograph, other biometric information on each employment authorization document issued by the Department.

SEC. 104. RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

"PART E—EMPLOYMENT VERIFICATION"

"RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY

"Sec. 1186. (a) CONFIRMATION OF EMPLOYMENT VERIFICATION DATA.—As part of the employment verification system established by the Secretary of Homeland Security under the provisions of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) (in this section referred to as the ‘System’), the Commissioner of Social Security shall, subject to the provisions of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), establish a reliable, secure means of operating through the System and within the time periods specified in section 274A(d) of such Act—

(1) compares the name, date of birth, social security account number, and available citizenship information provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the identity of the individual whose identity and employment eligibility must be confirmed;

(2) determines the correspondence of the name, date of birth, and number;

(3) determines whether the name and number belong to an individual who is deceased as a result of the records maintained by the Commissioner;

(4) determines whether an individual 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)); and

(5) determines whether the individual has presented a social security account number that is invalid for employment.

(b) PROHIBITION.—The System shall not disclose or release social security information to employers through the confirmation system (other than such confirmation or nonconfirmation, information provided by the employer to the System, or the reason for the issuance of a further action notice).

SEC. 310. PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.

(a) In General.—Sec. 274A(b)(6) of the Internal Revenue Code of 1986.

(1) PROHIBITION ON DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—It is an unfair immigration-related employment practice for a person, other entity, or employment agency, to discriminate against any individual (other than an unauthorized alien defined in section 274A(b)) because of that individual's national origin or citizenship status, with respect to the following:

(A) The hiring of the individual for employment;

(B) The verification of the individual's eligibility to work in the United States.

(C) Discrimination because of citizenship status which—

(i) is otherwise required in order to comply with a provision of Federal, State, or local law related to employment;

(ii) is required by Federal Government contract; or

(iii) the Secretary or Attorney General determines to be essential for an employer to do business with an agency or department of the Federal Government or a State, local, or tribal government.

(D) to use the System selectively for employment verification, including dates or other nonconfirmation information provided regarding an individual whose identity and employment eligibility may be confirmed;

(E) to discharge or constructively discharge an individual solely due to a further action notice issued by the Employment Verification System created by section 274A until the administrative appeal described in section 274A(d)(6) is completed;

(F) to use the System to the extent that any person for any purpose except as authorized by section 274A(d); or

(G) to require an employer or prospective employer to use any self-verification feature of the System or provide, as a condition of application or employment, any self-verification feature.

(2) EXCEPTIONS.—(A) The hiring of an individual by the Commissioner in order to confirm (or not confirm) the identity of the individual whose identity and employment eligibility must be confirmed; or

(B) where the individual is required to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

(b) REFERRAL BY EEOC.—The Equal Employment Opportunity Commission shall refer all matters alleging immigration-related employment practices filed with the Commission, including those alleging violations of paragraphs (1), (4), (5), and (6) of subsection (a), to the Special Counsel for Immigration-Related Employment Practices of the Department of Homeland Security.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 274b(3)(3) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting "and an additional $40,000,000 for each of fiscal years 2014 through 2016.”.

(d) FINES.—(1) In General.—Section 274b(g)(2)(B) of the Internal Revenue Code is amended by striking clause (iv) and inserting the following:

(iv) to pay any applicable civil penalties prescribed below, the amounts of which may be adjusted periodically to account for inflation as provided by law.

(2) Except as provided in subsections (II) through (IV), to pay a civil penalty of not less than $2,000 and not more than $5,000 for each individual subjected to an unfair immigration-related employment practice;
(II) except as provided in subclauses (III) and (IV), in the case of an employer, person, or entity previously subject to a single order under this paragraph, to pay a civil penalty of not less than $8,000 and not more than $25,000 for each individual subjected to an unfair immigration-related employment practice.

(IV) except as provided in subclause (IV), in the case of an employer, person, or entity previously subject to more than 1 order under this paragraph, to pay a civil penalty of not less than $8,000 and not more than $25,000 for each individual subjected to an unfair immigration-related employment practice.

SEC. 3106. RULEMAKING.

(a) INTERIM FINAL REGULATIONS.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing sections 3101 and 3104 and the amendments made by such sections (except for section 3101 of the Immigration and Nationality Act); and

(b) the Attorney General shall issue regulations implementing section 274A(e)(7) of the Immigration and Nationality Act, as added by section 3101, section 3105, and the amendments made by such sections.

(b) The term "small business'' means an employer with 100 or fewer employees.

(c) The term "small business'' means an employer with 50 or fewer employees.

(d) The term "small business'' means an employer with 49 or fewer employees.

(e) The term "small business'' means an employer with 48 or fewer employees.

(f) The term "small business'' means an employer with 47 or fewer employees.

(g) The term "small business'' means an employer with 46 or fewer employees.

(h) The term "small business'' means an employer with 45 or fewer employees.

(i) The term "small business'' means an employer with 44 or fewer employees.

(j) The term "small business'' means an employer with 43 or fewer employees.

(k) The term "small business'' means an employer with 42 or fewer employees.

(l) The term "small business'' means an employer with 41 or fewer employees.

(m) The term "small business'' means an employer with 40 or fewer employees.

(n) The term "small business'' means an employer with 39 or fewer employees.

(o) The term "small business'' means an employer with 38 or fewer employees.

(p) The term "small business'' means an employer with 37 or fewer employees.

(q) The term "small business'' means an employer with 36 or fewer employees.

(r) The term "small business'' means an employer with 35 or fewer employees.

(s) The term "small business'' means an employer with 34 or fewer employees.

(t) The term "small business'' means an employer with 33 or fewer employees.

(u) The term "small business'' means an employer with 32 or fewer employees.

(v) The term "small business'' means an employer with 31 or fewer employees.

(w) The term "small business'' means an employer with 30 or fewer employees.

(x) The term "small business'' means an employer with 29 or fewer employees.

(y) The term "small business'' means an employer with 28 or fewer employees.

(z) The term "small business'' means an employer with 27 or fewer employees.

(A) by amending subclause (I) to read as follows:

(1) in clause (i)—

(1) A victim of labor and immigration law or crime.

(A) the Secretary to Congress for legislative action to mitigate such problems.

(2) (b) in subsection (b) of section 274A of the Immigration and Nationality Act, as added by section 3101, section 3105, and the amendments made by such sections.

(3) The Immigration and Nationality Act are being administered by the Secretary.

(4) A victim of labor and immigration law or crime.

(5) A victim of labor and immigration law or crime.

(6) A victim of labor and immigration law or crime.

(7) A victim of labor and immigration law or crime.

(8) A victim of labor and immigration law or crime.

(9) A victim of labor and immigration law or crime.

(10) A victim of labor and immigration law or crime.

(SUBTITLE B—PROTECTING UNITED STATES WORKERS

SEC. 3201. PROTECTIONS FOR VICTIMS OF SERIOUS VIOLATIONS OF LABOR AND EM-

(a) In general.—Section 110(a)(15)(U) (8 U.S.C. 1101(a)(15)(U)) is amended—

(b) The term "small business'' means an employer with 100 or fewer employees.

(c) The term "small business'' means an employer with 99 or fewer employees.

(d) The term "small business'' means an employer with 98 or fewer employees.

(e) The term "small business'' means an employer with 97 or fewer employees.

(f) The term "small business'' means an employer with 96 or fewer employees.

(g) The term "small business'' means an employer with 95 or fewer employees.

(h) The term "small business'' means an employer with 94 or fewer employees.

(i) The term "small business'' means an employer with 93 or fewer employees.

(j) The term "small business'' means an employer with 92 or fewer employees.

(k) The term "small business'' means an employer with 91 or fewer employees.

(l) The term "small business'' means an employer with 90 or fewer employees.

(m) The term "small business'' means an employer with 89 or fewer employees.

(n) The term "small business'' means an employer with 88 or fewer employees.

(o) The term "small business'' means an employer with 87 or fewer employees.

(p) The term "small business'' means an employer with 86 or fewer employees.

(q) The term "small business'' means an employer with 85 or fewer employees.

(r) The term "small business'' means an employer with 84 or fewer employees.

(s) The term "small business'' means an employer with 83 or fewer employees.

(t) The term "small business'' means an employer with 82 or fewer employees.

(u) The term "small business'' means an employer with 81 or fewer employees.

(v) The term "small business'' means an employer with 80 or fewer employees.

(w) The term "small business'' means an employer with 79 or fewer employees.

(x) The term "small business'' means an employer with 78 or fewer employees.

(y) The term "small business'' means an employer with 77 or fewer employees.

(z) The term "small business'' means an employer with 76 or fewer employees.

(A) by amending subclause (I) to read as follows:

(1) the alien—

"(aa) a Federal, State, or local law en-
forcement official, or the Attorney General, or the State, or the local prosecutor, or the Federal, State, or local judge, or the Department of Homeland Security, the
Equal Employment Opportunity Commission, the Department of Labor, or other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iv); and

(b) any Federal, State, or local governmental agency or judge investigating, prosecuting, or seeking civil remedies for any cause of action arising from a covered violation committed by an alien who—

(1) is an employee of the United States; or

(2) has been helpful, is being helpful, or is likely to be helpful to such agency in the investigation, prosecution, or adjudication arising from a covered violation described in clause (iv); and

(IV) the criminal activity described in clause (ii) or the covered violation described in clause (iv) is—

(aa) violated the laws of the United States; or

(bb) occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States;

(2) in clause (ii)(B), by striking "and" at the end;

(3) by moving clause (iii) 2 ems to the left;

(4) in clause (iii), by inserting "child abuse; elder abuse; or"

(5) by adding at the end following:

(iv) a covered violation referred to in this clause is—

(I) a serious violation involving 1 or more of the following or any similar activity in violation of any Federal, State, or local law: serious workplace abuse, exploitation, retaliation, or violation of whistleblower protections;

(II) a violation giving rise to a civil cause of action under section 1985 of title 18, United States Code; or

(III) a violation resulting in the deprivation of due process or constitutional rights;"

(b) SAVINGS PROVISION.—Nothing in section 101(a)(15)(U)(iv) of the Immigration and Nationality Act, as added by subsection (a), may be construed as altering the definition of retaliation or discrimination under any other provision of law.

(c) TEMPORARY STAY OF REMOVAL.—Section 240A (8 U.S.C. 1229a), as amended by section 3101, is further amended—

(1) in subsection (e) by adding at the end the following:

(10) CONDUCT IN ENFORCEMENT ACTIONS.—If the Secretary undertakes an enforcement action at a facility about which a bona fide workplace claim has been filed or is contemporaneously filed, or as a result of information provided to the Secretary in retaliation against employees for exercising their rights related to a bona fide workplace claim, the Secretary shall ensure that—

(A) any aliens arrested or detained who are necessary for the investigation or prosecution of a violation of law, workplace claim, or criminal activity (as described in subparagraph (T) or (U) of section 101(a)(15)) are not removed from the United States until after the Secretary—

(i) notifies the appropriate law enforcement agency with jurisdiction over such violations or criminal activity; and

(ii) provides such agency with the opportunity to interview such aliens;

(B) no aliens entitled to a stay of removal or abeyance of removal proceedings under this subsection are removed; and

(C) the Secretary shall stay the removal of an alien who—

(i) has filed a claim regarding a covered violation described in clause (iv) of section 101(a)(15)(U) and is the victim of the same violations under an existing investigation;

(ii) is a material witness in any pending or anticipated proceeding involving a bona fide workplace claim or civil rights claim; or

(iii) has filed for relief under such section if the Secretary determines that the alien has been helpful, is being helpful, or is likely to be helpful to such agency in the investigation, prosecution, or adjudication arising from a covered violation described in clause (iv); and

(3) EMERGENCY DESIGNATION FOR CRIMINAL ACTIVITY OR LABOR AND EMPLOYMENT VIOLATIONS.—The Secretary of Homeland Security may permit an alien to remain temporarily in the United States and authorize the alien to engage in employment in the United States if the Secretary determines that the alien—

(1) has filed for relief under section 101(a)(15)(U); or

(2)(A) has filed, or is a material witness to, a bona fide claim or proceedings resulting from a covered violation (as defined in section 101(a)(15)(U)(iv)); and

(B) has been helpful, is being helpful, or is likely to be helpful, in the investigation, prosecution of, or pursuit of civil remedies related to the claim arising from a covered violation to—

(i) a Federal, State, or local law enforcement officer;

(ii) a Federal, State, or local prosecutor; or

(iii) a Federal, State, or local judge;

(iv) the Department of Homeland Security; or

(v) the Equal Employment Opportunity Commission; or

(vi) the Department of Labor; or

(4) in clause (iii), by inserting ''or an investigation, or violation of whistleblower protections;''

(5) in clause (iv) by striking ''in section 101(a)(15)(U)(iii),'' both places it appears and inserting ''in subsection (e) of section 101(a)(15)(U) or investigating, prosecuting, or seeking civil remedies for claims resulting from a covered violation described in clause (iv) of such section;''

(2) the investigation, or supervision, of, or by a public or private entity, or as a result of information provided to the Secretary in retaliation against individuals for exercising or attempting to exercise their employment rights or other legal rights;''; and

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

(C) At a facility about which a bona fide workplace claim has been filed or is contemporaneously filed.

SEC. 3202. EMPLOYMENT VERIFICATION SYSTEM FUNDING.

(a) Disposition of Civil Penalties.—Penalties collected under subsections (e)(4) and (f)(4) of the Nationality Act, amended by section 3101, shall be deposited, as offsetting receipts, into the Immigration Reform and Nationality Act of 1996 Trust Fund under subsection (a) of section 111–139; 2 U.S.C. 933(g)).

(b) EXPENDITURES.—Amounts made available into the Trust Fund under subsection (a) shall be made available to the Secretary and the Attorney General to provide education and training to employers and employees regarding the requirements, obligations, and rights under the Employment Verification System.

(c) Determination of Budgetary Effects.

(1) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the Senate, amounts made available under this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(2) EMERGENCY DESIGNATION FOR STATUTORY PAYO.—Amounts made available under this section are designated as an emergency requirement under section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

SEC. 3203. 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 subsection (b), the United States Sentencing Commission shall promulgate sentencing guidelines or establish sentencing categories and ranges to modify, if appropriate, the penalties imposed on persons convicted of offenses under—
(a) ESTABLISHMENT OF THE INTERIOR ENFORCEMENT ACCOUNT.—There is hereby established in the Treasury of the United States an account to be known as the Interior Enforcement Account.

(b) APPROPRIATIONS.—There are authorized to be appropriated to the Interior Enforcement Account—

(1) such sums as may be necessary to carry out section 3107 of the Immigration and Nationality Act, as amended by section 3105;

(2) such sums as may be necessary to carry out the provisions of this title and the amendments made by this title, including enforcing compliance with section 274B of the Immigration and Nationality Act, as amended by section 3105.

(1) In each of the 5 years beginning on the date of the enactment of this Act, the appropriations necessary to increase to a level not less than $5,000,000,000 the Interior Enforcement Account, and such sums as may be necessary to carry out the provisions of this title and the amendments made by this title, including enforcing compliance with section 274B of the Immigration and Nationality Act, as amended by section 3105.

(2) the Secretary determines are necessary to ensure the lawful functioning of such System and the connectivity between U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement.

(3) The appropriations necessary to establish a robust redesign process for employees who wish to appeal contested nonconfirmation actions.

(4) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(5) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(c) ESTABLISHMENT OF REIMBURSEMENT AMONG THE DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY ADMINISTRATION.—Effective for fiscal years beginning on or after the date of enactment of this Act, the Secretary and the Commissioner of Social Security shall enter into and maintain an agreement that—

(1) provides funds to the Commissioner for the full costs of the responsibilities of the Commissioner under this section, including—

(A) acquiring, installing, and maintaining technological resources; and

(B) conducting such personnel activities as are necessary for the fulfillment of the responsibilities of the Commissioner under this section; and

(c) the appropriations necessary for the enforcement of anti-discrimination, civil rights, privacy, or worker protection laws, and

(e) any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

(K) Investigate identity theft and fraud detected through such System and undertake the necessary enforcement or referral actions.

(L) Investigate use of or access to fraudulent documents and undertake the necessary enforcement actions.

(M) Perform other investigations that the Secretary determines are necessary to ensure the lawful functioning of such System, and undertake any enforcement actions necessary to investigate such investigations.

(2) section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216); and

(3) the Federal Migrant and Seasonal Agricultural Worker Protection Act of 1985 (29 U.S.C. 217); and

(4) the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3105.

(5) The appropriations necessary to provide the responsibilities of such Offices related to such System.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(8) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(9) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(10) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(11) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(12) funds to the Commissioner for the full costs of the responsibilities of the Commissioner under this section, including—

(A) acquiring, installing, and maintaining technological resources; and

(B) conducting such personnel activities as are necessary for the fulfillment of the responsibilities of the Commissioner under this section; and

(c) the appropriations necessary for the enforcement of anti-discrimination, civil rights, privacy, or worker protection laws, and

(e) any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

(K) Investigate identity theft and fraud detected through such System and undertake the necessary enforcement or referral actions.

(L) Investigate use of or access to fraudulent documents and undertake the necessary enforcement actions.

(M) Perform other investigations that the Secretary determines are necessary to ensure the lawful functioning of such System, and undertake any enforcement actions necessary to investigate such investigations.

(2) the appropriations necessary to acquire, install, and maintain technological systems, equipment, and the functions of such System and the connectivity between U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement, the Department of Justice, and other agencies or officials with respect to the sharing of information to support such System and related immigration enforcement actions.

(3) The appropriations necessary to establish a robust redesign process for employees who wish to appeal contested nonconfirmation actions to ensure the accuracy and fairness of such System.

(4) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(5) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(c) ESTABLISHMENT OF REIMBURSEMENT AMONG THE DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY ADMINISTRATION.—Effective for fiscal years beginning on or after the date of enactment of this Act, the Secretary and the Commissioner of Social Security shall enter into and maintain an agreement that—

(1) provides funds to the Commissioner for the full costs of the responsibilities of the Commissioner under this section, including—

(A) acquiring, installing, and maintaining technological resources; and

(B) conducting such personnel activities as are necessary for the fulfillment of the responsibilities of the Commissioner under this section; and

(c) the appropriations necessary for the enforcement of anti-discrimination, civil rights, privacy, or worker protection laws, and

(e) any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

(K) Investigate identity theft and fraud detected through such System and undertake the necessary enforcement or referral actions.

(L) Investigate use of or access to fraudulent documents and undertake the necessary enforcement actions.

(M) Perform other investigations that the Secretary determines are necessary to ensure the lawful functioning of such System, and undertake any enforcement actions necessary to investigate such investigations.

(2) the appropriations necessary to acquire, install, and maintain technological systems, equipment, and the functions of such System and the connectivity between U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement, the Department of Justice, and other agencies or officials with respect to the sharing of information to support such System and related immigration enforcement actions.

(3) The appropriations necessary to establish a robust redesign process for employees who wish to appeal contested nonconfirmation actions to ensure the accuracy and fairness of such System.

(4) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(5) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(c) the appropriations necessary for the enforcement of anti-discrimination, civil rights, privacy, or worker protection laws, and

(e) any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

(K) Investigate identity theft and fraud detected through such System and undertake the necessary enforcement or referral actions.

(L) Investigate use of or access to fraudulent documents and undertake the necessary enforcement actions.

(M) Perform other investigations that the Secretary determines are necessary to ensure the lawful functioning of such System, and undertake any enforcement actions necessary to investigate such investigations.

(2) the appropriations necessary to acquire, install, and maintain technological systems, equipment, and the functions of such System and the connectivity between U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement, the Department of Justice, and other agencies or officials with respect to the sharing of information to support such System and related immigration enforcement actions.

(3) The appropriations necessary to establish a robust redesign process for employees who wish to appeal contested nonconfirmation actions to ensure the accuracy and fairness of such System.

(4) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(5) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.

(7) The appropriations necessary to make grants to States to support the States in assisting the Federal Government in carrying out the provisions of this title and the amendments made by this title.

(c) ESTABLISHMENT OF REIMBURSEMENT AMONG THE DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY ADMINISTRATION.—Effective for fiscal years beginning on or after the date of enactment of this Act, the Secretary and the Commissioner of Social Security shall enter into and maintain an agreement that—

(1) provides funds to the Commissioner for the full costs of the responsibilities of the Commissioner under this section, including—

(A) acquiring, installing, and maintaining technological resources; and

(B) conducting such personnel activities as are necessary for the fulfillment of the responsibilities of the Commissioner under this section; and

(c) the appropriations necessary for the enforcement of anti-discrimination, civil rights, privacy, or worker protection laws, and

(e) any other compliance and monitoring activities that the Secretary determines are necessary to ensure the functioning of such System.

(K) Investigate identity theft and fraud detected through such System and undertake the necessary enforcement or referral actions.

(L) Investigate use of or access to fraudulent documents and undertake the necessary enforcement actions.

(M) Perform other investigations that the Secretary determines are necessary to ensure the lawful functioning of such System, and undertake any enforcement actions necessary to investigate such investigations.

(2) the appropriations necessary to acquire, install, and maintain technological systems, equipment, and the functions of such System and the connectivity between U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement, the Department of Justice, and other agencies or officials with respect to the sharing of information to support such System and related immigration enforcement actions.

(3) The appropriations necessary to establish a robust redesign process for employees who wish to appeal contested nonconfirmation actions to ensure the accuracy and fairness of such System.

(4) The appropriations necessary to provide a means by which individuals may access their own employment authorization data to ensure the accuracy of such data, independent of an individual’s employer.

(5) The appropriations necessary to carry out the responsibilities of the Biometric Exit System, which shall be reviewed by the Office of the Inspector General of the Social Security Administration and the Department.

(6) The appropriations necessary for the Office of Civil Rights and Civil Liberties and the Office of Privacy of the Department to perform the responsibilities of such Offices related to such System.
(B) the findings of the study conducted pursuant to paragraph (4); and
(C) the projected costs to develop and deploy an effective biometric exit data system.

(7) CONCLUSIONS.—There are authorized to be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this section.

(b) INTEGRATION AND INTEROPERABILITY.—
(1) INFORMATION SHARING.—The Secretary shall fully integrate all data from databases and data systems that process or contain information on aliens, which are maintained by—
(A) the Department, at—
(i) the U.S. Immigration and Customs Enforcement;
(ii) the U.S. Customs and Border Protection;
and
(iii) the U.S. Citizenship and Immigration Services;
(B) the Department of Justice, at the Executive Office for Immigration Review; and
(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the exit data system.

(3) INTEROPERABLE ELECTRONIC SYSTEM.—The Secretary shall fully implement an interoperable electronic data system to provide current and immediate access to information in the electronic manifest data system for law enforcement agencies and the intelligence community that is relevant to determine—
(A) whether to issue a visa; or
(B) the admissibility or deportability of an alien.

(4) TRAINING.—The Secretary shall establish ongoing training modules on immigration law and improve adjudications at United States ports of entry, consulates, and embassies.

(5) INFORMATION SHARING.—The Secretary shall report to the appropriate Federal law enforcement agency, intelligence agency, national security agency, or component of the Department of Homeland Security any alien who was lawfully admitted into the United States and whose individual data in the integrated exit data system shows that he or she has not departed the United States, when that information was legally required to do so, and shall ensure that—
(I) the alien has departed the United States when he or she was legally required to do so, the information contained in the integrated exit data system is updated to reflect the departure; and
(II) if the alien has not departed the United States when he or she was legally required to do so, reasonably available enforcement sources are employed to locate the alien and to commence removal proceedings against the alien.

SEC. 3304. IDENTITY-THEFT RESISTANT MANIFEST INFORMATION FOR PASSENGERS, CREW, AND NON-CREW ONBOARD DEPARTING AIRCRAFT AND VESSEL.

(a) DEFINITIONS.—Except as otherwise specifically provided, in this section:

(1) PERSON.—The term ‘‘person’’ includes an alien and any other individual, including any artificial person.

(2) PASSENGER.—The term ‘‘passenger’’ includes any individual, including any artificial person, other than a crew or noncrew member, for whom an electronic manifest data record is maintained.

(3) CREW.—The term ‘‘crew’’ includes any individual, including any artificial person, other than a noncrew member, for whom an electronic manifest data record is maintained.

(4) NON-CREW.—The term ‘‘noncrew’’ includes any individual, including any artificial person, for whom an electronic manifest data record is maintained.

(5) PILOT.—The term ‘‘pilot’’ means the owner, operator, or agent of an aircraft or vessel.

(6) IDENTIFICATION.—The term ‘‘identification’’ means a means of identification reliable and trustworthy in the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, individual, scheme, or organization.

(7) D A T A COLLECTION.—There are authorized to be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this section.

(b) INTEGRATION AND INTEROPERABILITY.—
(1) PASSPORT OR VISA COLLECTION REQUIREMENT.—Except as provided in subsection (c), an appropriate official of each commercial aircraft or vessel departing from the United States to any port or place outside the United States shall ensure transmission to U.S. Customs and Border Protection of identity-theft resistant departure manifest information covering alien passengers, crew, and noncrew. This identity-theft resistant departure manifest information includes the following:

(II) the Secretary shall report to the appropriate Federal law enforcement agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal law.

(c) STUDY AND REGULATIONS.—
(1) DATA COLLECTION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall begin collecting data regarding the individualized immigration enforcement activities of covered Department officers.

(2) STUDY.—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 Homeland Security and Governmental Affairs of the Senate, pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2011, and any other applicable statute, that describes the number of covered Department officers, the number of immigration enforcement actions initiated by such officers, and the number of aliens for whom such actions were initiated.

(3) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General, shall

The term ‘‘US-VISIT’’ means the United States-Visitor and Immigrant Status Indicator Technology system.

(b) IDENTITY THEFT RESISTANT MANIFEST INFORMATION REQUIREMENT.—
(1) PASSPORT OR VISA COLLECTION REQUIREMENT.—Except as provided in subsection (c), an appropriate official of each commercial aircraft or vessel departing from the United States to any port or place outside the United States shall ensure transmission to U.S. Customs and Border Protection of identity-theft resistant departure manifest information from each alien at an identity-theft resistant collection location at the airport or seaport before boarding or departure, or both, for departure from the United States, at a time as close to the originally scheduled departure of that passenger’s aircraft or sea vessel as practicable.

(2) MANNER OF COLLECTION.—Carriers boarding alien passengers, crew, and noncrew subject to the requirement to provide information upon departure for US-VISIT processing shall ensure that all data regarding the consent to provide release of such data is maintained.

(3) SUBMISSION OF COLLECTION.—
(A) within the path of the departing alien, or
(B) may be sent in batch mode.

(c) STUDY AND REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall begin collecting data regarding the individualized immigration enforcement activities of covered Department officers.

(d) CARRIER MAINTENANCE AND USE OF IDENTIFICATION.—
(1) NONCOMPLIANCE.—In the event that a covered Department officer determines that an air or vessel carrier has not adequately complied with the provisions of this section, the Secretary may, in the Secretary’s discretion, require the air or vessel carrier to collect identity-theft resistant departure manifest information at a specific location prior to the issuance of a boarding pass or other document on the international departure, or the international departure, the pilot or other appropriate member of the carrier boards aliens for international departure under the supervision of the Secretary for such period as the Secretary considers appropriate. In making any determination under this subsection, the Secretary shall ensure that the collection and transmission of biometric departure manifest information.

(f) FUNDING.—There shall be appropriated to the Secretary $500,000,000 to reimburse carriers for their reasonable actual expenses in carrying out their duties as described in this section.

(g) DETERMINATION OF BUDGETARY EFFECTS.—
(1) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the Senate, amounts made available under this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2011, and any other applicable statute.

(2) EMERGENCY DESIGNATION FOR STATUTORY PAYO.—Amounts made available under this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2011, and any other applicable statute.

(3) DEFINED TERM.—In this section, the term ‘‘Federal law enforcement officer’’ means any officer, agent, or employee of the United States authorized by the Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal law.

(4) STUDY AND REGULATIONS.—
(1) DATA COLLECTION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall begin collecting data regarding the individualized immigration enforcement activities of covered Department officers.

(2) STUDY.—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 Homeland Security and Governmental Affairs of the Senate, pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2011, and any other applicable statute, that describes the number of covered Department officers, the number of immigration enforcement actions initiated by such officers, and the number of aliens for whom such actions were initiated.

(3) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General, shall
issue regulations regarding the use of race, ethnicity, and any other suspect classifications the Secretary deems appropriate by covered Department officers.

(4) No later than 30 days after completion of the study required by paragraph (2), the Secretary shall submit the study to:

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

(B) the Committee on Homeland Security of the House of Representatives;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Appropriations of the House of Representatives;

(E) the Committee on the Judiciary of the Senate; and

(F) the Committee on the Judiciary of the House of Representatives.

(5) Definitions.—In this subsection, the term ‘covered Department officer’ means any officer, agent, or employee of United States Customs and Border Protection, United States Fish and Wildlife Service, or the Transportation Security Administration.

SEC. 3306. ENHANCED PENALTIES FOR CERTAIN DRUG OFFENSES ON FEDERAL LANDS.

(a) CULTIVATING OR MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.—Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended—

(1) in subparagraph (A), by striking ‘‘as provided in this subsection’’ and inserting ‘‘as provided in section 5106 of title 18, United States Code, and as otherwise provided by the Attorney General or the Secretary of Homeland Security’’;

(2) in subparagraph (B), by striking subparagraph (ii) and inserting the following:

‘‘(ii) is otherwise eligible under section 207(c)(2)(A) or 208(b)(3) of the Immigration and Nationality Act.’’

(b) USE OF HAZARDOUS SUBSTANCES.—The Attorney General or the Secretary of Homeland Security shall design the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 841(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the cultivation of a controlled substance on Federal property.

Subtitle D—Asylum and Refugee Provisions

SEC. 3400. SHORT TITLE.

This subtitle may be cited as the ‘‘Frank R. Lautenberg Asylum and Refugee Reform Act’’.

SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF GENUINE ASYLUM CLAIMS.

(a) CIRCUMSTANCES THAT REQUIRE EXPEDITED DECISIONS.—Section 208(a)(3) (8 U.S.C. 1158(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’ after ‘‘Attorney General’’ both places such term appears;

(2) by striking subparagraphs (B) and (D); and

(3) by redesignating subparagraph (C) as subparagraph (B);

(b) DESTRUCTION OF BODIES OF WATER.—Section 841(a)(8) (21 U.S.C. 841(a)(8)) is amended—

(1) in subparagraph (A), by striking ‘‘is being’’.

(c) DIRECT HOUSING AUTHORITY.—Section 215(a)(3) (21 U.S.C. 841(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(d) DAMAGE TO PROPERTIES.—Section 841(a)(5) (21 U.S.C. 841(a)(5)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(e) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES.—Section 846(a)(2) (21 U.S.C. 846(a)(2)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’.

(f) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pursuant to its authority under section 3306 of title 18, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the cultivation of a controlled substance on Federal property.

Subsection D—Asylum and Refugee Provisions

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(a) CIRCUMSTANCES THAT REQUIRE EXPEDITED DECISIONS.—Section 208(a)(3) (8 U.S.C. 1158(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’ after ‘‘Attorney General’’ both places such term appears;

(2) by striking subparagraphs (B) and (D); and

(3) by redesignating subparagraph (C) as subparagraph (B);

(b) DESTRUCTION OF BODIES OF WATER.—Section 841(a)(8) (21 U.S.C. 841(a)(8)) is amended—

(1) in subparagraph (A), by striking ‘‘is being’’.

(c) DIRECT HOUSING AUTHORITY.—Section 215(a)(3) (21 U.S.C. 841(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(d) DAMAGE TO PROPERTIES.—Section 841(a)(5) (21 U.S.C. 841(a)(5)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(e) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES.—Section 846(a)(2) (21 U.S.C. 846(a)(2)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’.

(f) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pursuant to its authority under section 3306 of title 18, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the cultivation of a controlled substance on Federal property.

Subtitle D—Asylum and Refugee Provisions

SEC. 3400. SHORT TITLE.

This subtitle may be cited as the ‘‘Frank R. Lautenberg Asylum and Refugee Reform Act’’.

SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF GENUINE ASYLUM CLAIMS.

(a) CIRCUMSTANCES THAT REQUIRE EXPEDITED DECISIONS.—Section 208(a)(3) (8 U.S.C. 1158(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’ after ‘‘Attorney General’’ both places such term appears;

(2) by striking subparagraphs (B) and (D); and

(3) by redesignating subparagraph (C) as subparagraph (B);

(b) DESTRUCTION OF BODIES OF WATER.—Section 841(a)(8) (21 U.S.C. 841(a)(8)) is amended—

(1) in subparagraph (A), by striking ‘‘is being’’.

(c) DIRECT HOUSING AUTHORITY.—Section 215(a)(3) (21 U.S.C. 841(a)(3)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(d) DAMAGE TO PROPERTIES.—Section 841(a)(5) (21 U.S.C. 841(a)(5)) is amended—

(1) in subparagraph (A), by striking ‘‘are being’’.

(e) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES.—Section 846(a)(2) (21 U.S.C. 846(a)(2)) is amended—

(1) in subparagraph (A), by striking ‘‘the Secretary of Homeland Security’’.

(f) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pursuant to its authority under section 3306 of title 18, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the cultivation of a controlled substance on Federal property.
"(1) be in writing; and
"(2) state, to the maximum extent fea-
tible, the reason for the denial.
"(vii)Refugees admitted pursuant to a de-
nomination under subparagraph (A) of section 212(a) shall not be subject to the
number of admissions and be admissible
under this section.").

SEC. 3404. ASYLUM DETERMINATION EFF-
CIENCY.
Section 235(b)(1)(B)(i) (8 U.S.C. 1225(b)(1)(B)(i)) is amended by striking "asylum," and inserting "asylum by an asylum officer, after conducting a nonadversarial asylum interview and seek-
ing supervisory review, may grant asylum to the alien under section 208 or refer the case to a designated asylum officer for a de novo asylum determination, for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treat-
ment or Punishment, done at New York De-
tember 10, 1984, or for protection under sec-
tion 214(b)(3).").

SEC. 3405. STATELESS PERSONS IN THE UNITED STATES.

(a) In General.—Chapter 1 of title II (8 U.S.C. 1151 et seq.) is amended by adding at the end the following:

"SEC. 210A. PROTECTION OF CERTAIN STATELESS PERSONS IN THE UNITED STATES.

"(a) Stateless Persons.—
"(1) In General.—In this section, the term "stateless person" means an individual who is not considered a national under the opera-
tion of the laws of any country.
"(2) Designation of Specific Stateless Groups.—The Secretary of Homeland Secu-
ritv, in consultation with the Secretary of State, may, in the discretion of the Sec-
retary, designate specific groups of individ-
uals who are considered stateless persons, for purposes of this section.

"(b) Status of Stateless Persons.—
"(1) Relief for Certain Individuals De-
termined to be Stateless Persons.—The Secretary of Homeland Secu-
ritv or the Attorney General may, in his or her discretion, provide conditional lawful status to an alien who is otherwise inadmissible or deportable from the United States if the alien—

"(A) is a stateless person present in the United States;
"(B) applies for such relief;
"(C) has not lost his or her nationality as a result of his or her voluntary action or
knowing inaction after arrival in the United States; and
"(D) except as provided in paragraphs (2) and (3), is not inadmissible under section 212(a); and

"(E) is not described in section 214(b)(3)(B)(i).

"(2) Inapplicability of Certain Provi-
sions.—The provisions under paragraphs (a), (b), (c), and (d) of section 212(a) shall not apply to any alien seeking relief under para-
graph (1).

"(3) Waiver.—The Secretary or the Attor-
ney General may, in his or her discretion, waive any other provisions of this section, other than subparagraphs (B), (C), (D)(ii), (E), (G), (H), or (I) of paragraph (2), paragraph (3), paragraph 6(c)(1) (with respect to misrepresentations relating to the application for relief under paragraph (1)), or subparagraphs (A), (C), (D), or (E) of paragraph (10) of section 212(a), with respect to such an alien for humanitarian purposes, to assure family unity, or if it is otherwise in the public interest.

"(4) Submission of Passport or Travel Document.—Who seeks relief under this section shall submit to the Secretary of Homeland Security or the Attorney Gen-
eral—

"(A) any available passport or travel docu-
ment issued at any time to the alien wheth-
er or not the passport or document has ex-
pired or been cancelled, rescinded, or re-
rvoked; or
"(B) an affidavit, sworn under penalty of per-
jury;
"(i) stating that the alien has never been issued a passport or travel document;
"(ii) identifying with particularity any such passport or travel document and ex-
plaining why the alien can not submit it.

"(5) Work Authorization.—The Secretary of Homeland Security may authorize an alien who has applied for and is found prima facie eligible for relief under this paragraph (1) to engage in employment in the United States.

"(b) Travel Documents.—The Secretary may issue appropriate travel documents to an alien who has been granted relief under paragraph (1) that would allow him or her to travel abroad and be admitted to the United States upon return, if otherwise admissible.

"(7) Treatment of Spouses and Children.—
The spouse or child of an alien who has been

"(A) the alien has been physically present in the United States for at least 1 year;
"(B) the alien's conditional lawful status has not been terminated by the Secretary of Homeland Security or the Attorney General, pursuant to such regulations as the Sec-
retary or the Attorney General may pre-
scribe; and

"(C) the alien has not otherwise acquired permanent resident status.

"(2) Requirements for Adjustment of Status.—The Secretary of Homeland Secu-
ritv or the Attorney General, under such reg-
ulations as the Secretary or the Attorney General may prescribe, may adjust the sta-
tus of an alien granted conditional lawful status under subsection (b) to that of an alien lawfully admitted for permanent resi-
dence if such alien—

"(A) is a stateless person;
"(B) properly applies for such adjustment of status;

"(C) has been physically present in the United States for at least 1 year after being granted conditional lawful status under sub-
section (b);
"(D) is not firmly resettled in any foreign
country; and

"(E) is admissible (except as otherwise pro-
vided under paragraph (2) or (3) of subsection (b)) as an immigrant under this chapter at the time of examination of such alien for ad-
justment of status.

"(3) Record.—Upon approval of an applica-
tion under this subsection, the Secretary of Homeland Security shall establish a record of the alien's admission for lawful permanent residence to the United States that is 1 year before the date of such approval.

"(4) Numerical Limitation.—The number of aliens who may receive an adjustment of status under paragraph (1) in any fiscal year shall be subject to the numerical limitation of section 233(b)(4).

"(d) Proving the Claim.—In determining an alien's eligibility for lawful conditional status or adjustment of status under this subsection, the Secretary of Homeland Secu-
rity or the Attorney General shall consider any credible evidence relevant to the appli-
cation. The determination of what evidence is relevant and the weight to be given that evidence shall be within the sole discretion of the Secretary or the Attorney General.

"(e) Review.—

"(1) Administrative Review.—No appeal shall lie from the denial of an application by the Secretary, but such denial will be without prejudice to the alien's right to renew the application in proceedings under section 240.

"(2) Motions to Reopen.—Notwithstanding any limitation imposed by law on motions to reopen, the Attorney General shall consider any evidence that may be presented in support of a motion to reopen under this section. Such motion shall be filed within 2 years of the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

"(f) Limitation.—

"(1) Applicability.—The provisions of this section shall only apply to aliens present in the United States.

"(2) Savings Provision.—Nothing in this section may be construed to authorize or re-
quire—

"(A) the admission of any alien to the United States;
"(B) the parole of any alien into the United States; or
"(C) the grant of any motion to reopen or reconsider filed by an alien after departure or removal from the United States.

"(g) Judicial Review.—Section 224(a)(2)(A) (8 U.S.C. 1252(a)(2)(A)) is amended by striking "10,000," and inserting "18,000, of which not more than 3,000 visas may be issued for aliens who are vic-
tims of a covered violation described in section 101(a)(15)(U),".

SEC. 3406. U VISAS ACCESSIBILITY.
Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is amended by striking "10,000," and inserting "18,000, of which not more than 3,000 visas are pending for use by individuals who are vic-
tims of a covered violation described in section 101(a)(15)(U),".

SEC. 3407. WORK AUTHORIZATION WHILE APPLI-
CATIONS FOR U AND T VISAS ARE PENDING.
(a) U Visas.—Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is further amended—
"(1) in paragraph (6), by striking the last sentence; and
"(2) by adding at the end the following:

"(7) Work Authorization.—Notwith-
standing any provision of this Act granting eligibility for employment in the United States, the Secretary of Homeland Security shall grant employment authorization to an alien who has filed an application for non-
immigrant status under section 101(a)(15)(U) on the date that is the earlier of—

"(A) the date on which the alien's appli-
cation for lawful permanent residence is
determined to be pending, or
"(B) a date determined by the Secretary that is not later than 180 days after the date on which the alien filed the application.

"(B) U Visas.—Section 214(p)(2)(A) (8 U.S.C. 1184(o)) is amended by adding at the end the following:
"(8) Notwithstanding any provision of this Act granting eligibility for employment in the United States, the Secretary of Homeland Security shall grant employment authorization to any individual who has filed an application for nonimmigrant status under section 101(a)(15)(T) on the date that is earlier of—

"(A) the date on which the alien's application for such status is approved; or

"(B) a date determined by the Secretary that is not later than 180 days after the date on which the alien filed the application.".

SEC. 3408. REPRESENTATION AT OVERSEAS REFUGEE INTERVIEWS.

Section 207(c) (8 U.S.C. 1157(c)) is amended by adding at the end the following new subparagraph:

"(n) The adjudicator for a refugee status case shall be represented, including at a refugee interview, at no expense to the Government, by an attorney or accredited representative who—

"(A) was chosen by the applicant; and

"(B) is authorized by the Secretary of Homeland Security to be recognized as the representative of such applicant in an adjudication under this section.

"(7)(A) A decision to deny an application for refugee status under this section—

"(i) shall be in writing; and

"(ii) shall provide, to the maximum extent feasible, information on the reason for the denial, including—

"(I) the facts underlying the determination;

"(II) whether there is a waiver of inadmissibility available to the applicant;

"(B) The basis of any negative credibility finding shall be part of the written decision.

"(8)(A) An applicant who is denied refugee status may file a request for review with the Secretary for a review of his or her application not later than 120 days after such denial.

"(B) A request filed under subparagraph (A) shall be adjudicated by refugee officers who have received training on considering requests for review of refugee applications that have been denied.

"(C) The Secretary shall publish the standard applied to a request for review.

"(D) A request for review may result in the decision being granted, denied, or reopened for a further interview.

"(E) A decision on a request for review under this paragraph—

"(i) shall be in writing; and

"(ii) shall provide, to the maximum extent feasible, information on the reason for the denial.

SEC. 3409. LAW ENFORCEMENT AND NATIONAL SECURITY CHECKS.

(a) REFUGEES.—Section 207(c)(1) (8 U.S.C. 1157(c)(1)) is amended by adding at the end the following new subparagraph:

"(x) by inserting after subparagraph (B) the following:

"(ii) the person shall''; and

"(b) Asylees.—Section 208(d)(5)(A)(i) (8 U.S.C. 1158(d)(5)(A)(i)) is amended to read as follows:

"(i) asylum shall not be granted until the identity of the applicant, using biographic and biometric data, has been checked against all appropriate records or databases maintained by the Secretary of Homeland Security, the Attorney General, the Secretary of State, and other Federal records or databases that the Secretary of Homeland Security considers necessary, to determine any national security, law enforcement, or other grounds on which the alien may be inadmissible to the United States or ineligible to apply for or be granted refugee status.

SEC. 3410. TIBETAN REFUGEE ASSISTANCE.

(a) Qualifying options section (a) shall be amended as follows:

"(8)(A) An applicant who is denied refugee status under this section—

"(i) shall be entitled to a complete copy of all relevant documents in the possession of the Secretary of State, and other Federal records or databases that the Secretary of Homeland Security considers necessary, to determine any national security, law enforcement, or other grounds on which the alien may be inadmissible to the United States or ineligible to apply for or be granted asylum.

"(B) the alien shall, at the beginning of the proceeding, or at a reasonable time thereafter, automatically receive a complete copy of all relevant documents in the possession of the Attorney General.

"(c) EXCEPTION FOR CERTAIN ALIENS FROM CUBA.—Subsection (a) shall not apply to an alien who is eligible for adjustment to that of an alien lawfully admitted for permanent residence pursuant to section 101(a)(12) of the Cuban Adjustment Act of 1966 (Public Law 89–732).

SEC. 3411. TERMINATION OF ASYLUM OR REFUGE

IMMIGRATION COURT PERSONNEL FOR REMOVAL PROCEEDINGS.

(a) IMMIGRATION COURT JUDGES.—The Attorney General shall increase the number of Board of Immigration Appeals staff attorneys (including the necessary additional support staff) to efficiently process cases by at least—

(1) 30 in fiscal year 2014;

(2) 75 in fiscal year 2015; and

(3) 75 in fiscal year 2016.

(b) NEEDED STAFF.—The Attorney General shall increase the number of Board of Immigration Appeals staff attorneys (including the necessary additional support staff) to efficiently process cases by at least—

(1) 30 in fiscal year 2014;

(2) 75 in fiscal year 2015; and

(3) 75 in fiscal year 2016.

(c) FUNDING.—There shall be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this section.

SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.

(a) CLARIFICATION REGARDING THE AUTHORITY OF THE ATTORNEY GENERAL TO APPOINT COUNSEL TO ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 (8 U.S.C. 1252) is amended—

"(1) by inserting “(a)” before “In any”;

"(2) by striking “(at no expense to the Government)”;

"(3) by striking “he shall” and inserting “the person shall”;

"(4) by adding at the end the following:

"(b) The Government is not required to provide counsel to aliens under subsection (a). However, the Attorney General may, in the Attorney General’s sole and reasonable discretion, appoint or provide counsel to aliens in immigration proceedings conducted under section 240 of this Act.”.

(b) APPOINTMENT OF COUNSEL IN CERTAIN REMOVAL PROCEEDINGS.—Section 240(b) (8 U.S.C. 1229(b)) is amended—

"(1) by inserting “(a)” before “In any”;

"(2) by striking “(at no expense to the Government)”;

"(3) by striking “he shall” and inserting “the person shall”; and

"(4) by adding at the end the following:

"(b) The Government is not required to provide counsel to aliens under subsection (a). However, the Attorney General may, in the Attorney General’s sole and reasonable discretion, appoint or provide counsel to aliens in immigration proceedings conducted under section 240 of this Act.”.

(c) EXCEPTION FOR CERTAIN DOCUMENTS IN REMOVAL PROCEEDINGS.—Section 240(b)(8) (8 U.S.C. 1229(b)(8)) is amended—

"(1) by inserting “(a)” before “In any”;

"(2) by striking “(at no expense to the Government)”;

"(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the alien shall, at the beginning of the proceeding or at a reasonable time thereafter, automatically receive a complete copy of all relevant documents in the possession of the Attorney General.

SEC. 3503. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.
of the Department of Homeland Security, including all documents protected from disclosure by privilege, including national security information referred to in subparagraph (C), law enforcement sensitive information, and information prohibited from disclosure pursuant to any other provision of law) contained in the file maintained that includes information with respect to all transactions involving the alien during the immigration process (commonly referred to as an ‘A-file’), and a copy of the file. Such a removal proceeding may not proceed until the alien has received the documents as required under this subparagraph.

(c) ATTORNEY GENERAL’S COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN AND ALIENS WITH A SERIOUS MENTAL DISABILITY.—Section 292 (8 U.S.C. 1229a), as amended by subsection (d) of paragraph (2) of section 3505 of the Act, is further amended by adding at the end the following:

‘‘(e) NOTWITHSTANDING subsection (b), the Attorney General shall appoint counsel, at the expense of the Government if necessary, to represent an alien in a removal proceeding who has been determined by the Secretary to be an unaccompanied alien child, is incompetent to represent himself or herself due to a serious mental disability that would be included in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)), or is considered particularly vulnerable when compared to other aliens in removal proceedings. Such an appointment of counsel is necessary to help ensure fair resolution and efficient adjudication of the proceedings.’’.

(d) RULE OF CONSTRUCTION.—There shall be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this section.

SEC. 3504. CODIFYING BOARD OF IMMIGRATION APPEALS.

(a) DEFINITION OF BOARD MEMBER.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following:

‘‘(2) Board Member means an attorney whom the Attorney General appoints to serve on the Board of Immigration Appeals within the Executive Office of Immigration Review, and is qualified to review decisions of immigration judges and other matters within the jurisdiction of the Board of Immigration Appeals.’’.

(b) BOARD OF IMMIGRATION APPEALS.—Section 240(a)(1) (8 U.S.C. 1229a(a)(1)) is amended by adding at the end the following: ‘‘The Board of Immigration Appeals and its Board Members are subject to the same errors of law, fact, or discretion. ’’.

(c) APPEALS.—Section 240(b)(4) (8 U.S.C. 1229a(b)(4)), as amended by section 3302(b), is further amended—

(1) by striking ‘‘(B), by striking ‘‘(C),’’ and inserting a semicolon;

(2) in subparagraph (B), by striking the period and inserting ‘‘;’’; and

(3) by inserting after subparagraph (C) the following:

‘‘(D) The alien or the Department of Homeland Security may appeal the immigration judge’s decision to a 3-judge panel of the Board of Immigration Appeals.’’.

(d) DECISION AND BURDEN OF PROOF.—Section 240(c)(1)(A) (8 U.S.C. 1229a(c)(1)(A)) is amended to read as follows:

‘‘(A) IN GENERAL.—At the conclusion of the proceeding, the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based on the evidence adduced at the hearing, shall provide a written opinion. The opinion shall address all dispositive arguments raised by the parties. The appropriate court of appeals shall review the opinion of the immigration judge whose decision is being reviewed, provided that the panel also addresses any arguments made by the nonprevailing party regarding purported errors of law, fact, or discretion.’’.

SEC. 3505. IMPROVED TRAINING FOR IMMIGRATION JUDGES AND BOARD MEMBERS.

(a) IN GENERAL.—Section 240 (8 U.S.C. 1229a) is amended by adding at the end the following:

‘‘(f) IMPROVED TRAINING.—

(i) IMPROVED TRAINING FOR IMMIGRATION JUDGES AND BOARD MEMBERS.—

‘‘(A) IN GENERAL.—In consultation with the Attorney General and the Director of the Federal Judicial Center, the Director of the Executive Office for Immigration Review shall develop and administer a program of training for immigration judges and Board Members.

‘‘(B) ELEMENTS OF REVIEW.—Each such review shall study:

‘‘(i) the expansion of the training program for new immigration judges and Board Members;

‘‘(ii) continuing education regarding current developments in the field of immigration law; and

‘‘(iii) methods to ensure that immigration judges are trained on properly crafting and dictating decisions.

‘‘(2) IMPROVED CHALLENGES TO IMMIGRATION JUDGES.—The Director of the Executive Office for Immigration Review shall—

‘‘(A) modify guidance and training regarding screening standards and standards of review; and

‘‘(B) ensure that Board Members provide staff attorneys with appropriate guidance in drafting decisions in individual cases, consistent with the policies and directives of the Director of the Executive Office for Immigration Review and the Chairman of the Board of Immigration Appeals.

‘‘(3) IMPROVED RULEMAKING.—There shall be appropriated, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), such sums as may be necessary to carry out this section and the amendment made by this section.

SEC. 3506. IMPROVED RESOURCES AND TECHNOLOGY FOR IMMIGRATION COURTS AND BOARD OF IMMIGRATION APPEALS.

(a) IMPROVED ON-BEACH REFERENCE MATERIALS AND DECISION TEMPLATES.—The Director of the Executive Office for Immigration Review shall ensure that immigration judges are provided with updated reference materials and standard decision templates that conform to the law of the circuits in which they sit.

(b) PRACTICE MANUAL.—The Director of the Executive Office for Immigration Review shall produce a practice manual describing best practices for the immigration courts and shall make such manual available electronically to immigration judges who appear before the immigration courts.

(c) RECORDING SYSTEM AND OTHER TECHNOLOGIES.—

(1) PLAN REQUIRED.—The Director of the Executive Office for Immigration Review shall provide the Attorney General with a schedule to replace the immigration courts’ tape recording system with a digital recording system that is compatible with the information management systems of the Executive Office for Immigration Review.

(2) AUDIO RECORDING SYSTEM.—Consistent with the plan described in paragraph (1), the Director of the Executive Office for Immigration Review shall publish a rule to replace the digital recording system not later than 1 year after the enactment of this Act, and shall begin nationwide implementation of that system as soon as practicable.

(d) IMPROVED TRANSCRIPTION SERVICES.—Not later than 1 year after the enactment of
this Act, the Director of the Executive Office for Immigration Review shall report to the Attorney General on the current system of services and improvements to this system regarding quality and timeliness of transmission.

(e) Improved Interpreter Selection.—Not later than 1 year after the enactment of this Act, the Director of the Executive Office for Immigration Review shall report to the Attorney General on the current interpreter selection process utilized by the system and recommend improvements to this system regarding screening, hiring, certification, and evaluation of staff and contract interpreters.

(f) Funds Transferred Pursuant to this Section.—(1) The funds appropriated to the Department of Health and Human Services shall remain available until expended and shall be used only for the purposes for which the funds were originally appropriated and may be transferred to any department or agency of the United States Government.

(2) The term ‘‘worker’’ means an individual who is the subject of foreign labor contracting activity; and the term ‘‘foreign labor contractor’’ means any person who performs foreign labor contracting activity.

(3) The term ‘‘contract authority’’ means any person who performs foreign labor contracting activity wholly or partly outside of the United States, including when such activity occurs wholly outside of the United States.

(4) The term ‘‘penned’’ means any natural person or any corporation, company, firm, partnership, joint stock company or association or other organization or entity (whether or not organized or incorporated), including municipal corporations.

(5) The term ‘‘worker’’ means an individual who is the subject of foreign labor contracting activity; and the term ‘‘procurement officer’’ means any person who is the subject of foreign labor contracting activity.

(6) The term ‘‘United States’’ means, unless the context otherwise requires, the United States of America, including any possession and trust territory of the United States, and any area under the jurisdiction of the United States.

SEC. 2004. DISCLOSURE.

(a) REQUIREMENT FOR DISCLOSURE.—Any person who engages in foreign labor contracting activity shall ascertain and disclose in writing in English and in the primary language of the worker at the time of the worker’s recruitment, the following information:

(1) The identity and address of the employer and the identity and address of the person conducting the recruiting on behalf of the employer, including any subcontractor or agent involved.

(2) All assurances and terms and conditions of employment, from the prospective employer for whom the worker is being recruited, including the level of compensation to be paid, the place and period of employment, a description of the type and nature of employment activities, any withholding or non-compensation and any penalties for terminating employment.

(3) A signed copy of the work contract between the worker and the employer.

(4) The type of visa under which the foreign worker is to be employed, the length of time for which such visa will be valid, the terms and conditions under which the visa may be renewed, and a clear statement of any expenses associated with securing or renewing the visa.

(5) An itemized list of any costs or expenses to be charged to the worker and any deductions to be taken from wages, including any costs for housing or accommodation, transportation to and from the worksite, meals, health insurance, workers’ compensation, cost of benefits provided, medical examinations, healthcare, tools, or safety equipment costs.

(6) The existence of any labor organizing effort, strikes, or other labor dispute at the place of employment.

(7) Whether and the extent to which workers will be compensated through workers’ compensation insurance, or otherwise, for injuries or death, including work-related injuries and death, during the period of employment and, if so, the name of the worker’s compensation insurance carrier or the name of the policyholder of the private insurance, the name and the telephone number of each person who must be notified of an injury, the work-related injury or death period within which such notice must be given.

(8) A statement, in a form specified by the Secretary—

(A) stating that—

(i) no foreign labor contractor, agent, or employee of a foreign labor contractor, may lawfully assess any fee (including visa fees, processing fees, transportation fees, legal expenses, placement fees, and other costs) to a worker for any foreign labor contracting activity; and

(ii) the employer may bear such costs or fees for the foreign labor contractor, but that these fees cannot be passed along to the worker;

(B) explaining that—

(i) no additional significant requirements or changes may be made to the original contract signed by the worker without at least 24 hours to consider such changes and the specific consent of the worker, obtained voluntarily and without threat of penalty; and

(ii) the worker will be allowed to continue in the original contract that do not comply with clause (i) shall be a violation of this subtitle and be subject to the provisions of section 3602 of this Act;

(9) Any education or training to be provided or required, including—

(A) the nature, timing, and cost of such training;

(B) the person who will pay such costs;

(C) whether the training is a condition of employment, continued employment, or future employment; and

(D) whether the worker will be paid or renumerated during the training period, including the rate of pay.

(b) Relationship to Labor and Employment Laws.—Nothing in the disclosure required by subsection (a) shall constitute a legal conclusion as to the worker’s status or rights under the labor and employment laws.

(c) Prohibition on False and Misleading Information.—No foreign labor contractor or agent who engages in foreign labor contracting activity shall knowingly provide materially false or misleading information to any worker concerning any matter, which the contractor is required to disclose by subsection (a). The disclosure required by this section is a document concerning the proper administration of a matter within the jurisdiction of a department or agency of the United States for the purposes of the purposes of section 519 of title 18, United States Code.

SEC. 2005. PROHIBITION ON DISCRIMINATION.

(a) In General.—It shall be unlawful for an employer or a foreign labor contractor to fail or refuse to hire, discharge, intimidate, threaten, restrain, coerce, or blacklist any individual or otherwise discriminate against an individual who is the subject of foreign labor contracting activity on the basis of the status or identity of such individual, as determined under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(b) Determinations of Discrimination.—For the purposes of determining the existence of unlawful discrimination under subsection (a),

(1) in the case of a claim of discrimination based on race, color, creed, sex, national origin, religion, age, or disability, the same legal standards and procedures as are applicable under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(2) in the case of a claim of discrimination based on unlawful discrimination based on age, the same legal standards shall apply as are applicable under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

(3) in the case of a claim of discrimination based on disability, the same legal standards shall apply as are applicable under title I of the Americans With Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

SEC. 2006. RECRUITMENT FEES.

No employer, foreign labor contractor, or agent who is the subject of foreign labor contracting activity, shall assess any fee (including visa fees, processing fees, transportation fees,
SEC. 3605. REGISTRATION.

(a) REQUIREMENT TO REGISTER.—

(1) IN GENERAL.—Subject to paragraph (2), prior to any foreign labor contracting activity, any person who is a foreign labor contractor or who, for any money or other valuable consideration paid or promised to perform a foreign labor contracting activity on behalf of a foreign labor contractor, shall obtain a certificate of registration from the Secretary of Labor pursuant to regulations promulgated by the Secretary under subsection (c).

(2) EXCEPTION FOR CERTAIN EMPLOYERS.—An employer, or employee of an employer, who engages in foreign labor contracting activity solely to find employees for that employer’s own use, and without the participation of any other foreign labor contractor, shall not be required to register under this section.

(b) NOTIFICATION.—

(1) ANNUAL EMPLOYER NOTIFICATION.—Each employer shall notify the Secretary, not less frequently than once every year, of the identity of any foreign labor contractor involved in any foreign labor contracting activity for, on behalf of, the employer, including at a minimum, the name and address of the foreign labor contractor, a description of the services for which the foreign labor contractor is being used, whether the foreign labor contractor is to receive any economic compensation for the services, and, if so, the identity of the person or entity who is paying for the services.

(2) ANNUAL FOREIGN LABOR CONTRACTOR NOTIFICATION.—Each foreign labor contractor shall notify the Secretary, not less frequently than once every year, of the identity of any subcontractee, agent, or foreign labor contractor involved in any foreign labor contracting activity for, on behalf of, the foreign labor contractor.

(3) NONCOMPLIANCE NOTIFICATION.—An employer, or employee of an employer, who engages in foreign labor contracting activity shall notify the Secretary of the identity of a foreign labor contractor whose activities do not comply with this subtitle.

(4) AGREEMENT.—Not later than 7 days after receipt from the Secretary of the notification required by paragraph (3), the employer shall provide the Secretary with the identity of any foreign labor contractor with which the employer has a contract or other agreement.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations to establish electronic databases for the timely investigation and approval of an application for a certificate of registration of foreign labor contractors, including—

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant’s permanent place of residence, the foreign labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a set of fingerprints of the applicant;

(3) an expeditious means to update registrations and renew certificates;

(4) providing for the consent of any foreign labor recruiter to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced, otherwise has become unavailable to be served, or is subject to personal jurisdiction in no State;

(5) providing for the consent of any foreign labor recruiter to jurisdiction in the Department of Labor, or any other Federal agency, in the United States for any action brought by any aggrieved individual or worker;

(6) providing for cooperation in any investigation by the Secretary or other appropriate authorities;

(7) providing for consent to the forfeiture of the bond for failure to cooperate with these provisions;

(8) providing for consent to be liable for violations of this subtitle by any agents or subcontractees to the foreign labor contracting activity of the agent or subcontractee to the same extent as if the foreign labor contractor had committed the violations.

(d) T ERM OF REGISTRATION.—Unless suspended or revoked, a certificate under this section shall be valid for 2 years.

(e) APPLICATION FEE.—

(1) REQUIREMENT FOR FEE.—In addition to any other fees authorized by law, the Secretary shall impose a fee, to be deposited in the general fund of the Treasury, on a foreign labor contractor that submits an application for a certificate of registration under this section.

(2) AMOUNT OF FEE.—The amount of the fee required by paragraph (1) shall be set at a level that will, to the maximum extent practicable, cover the costs of reviewing all foreign labor contract registration activities under this subtitle, including worker education and any additional costs associated with the collection of fees required under this section.

(f) REFUSAL TO ISSUE; REVOCATION.—In accordance with regulations promulgated by the Secretary, the Secretary shall refuse to issue or renew, or shall revoke and debar from eligibility to obtain a certificate of registration for a period of not greater than 5 years, after notice and a hearing, a certificate of registration under this section if—

(A) the applicant for, or holder of, the certificate has knowingly made a material misrepresentation in the application for such certificate;

(B) the applicant for, or holder of, the certificate is not the real party in interest in the application or certificate of registration and the real party in interest—

(i) is a person who has been refused issuance or renewal of a certificate;

(ii) has had a certificate revoked; or

(iii) does not qualify for a certificate under this section;

(C) the applicant for, or holder of, the certificate has been convicted within the preceding 5 years of—

(i) any felony under State or Federal law or crime involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts serious injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally; or

(ii) any crime relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any labor contracting activities; or

(D) the applicant for, or holder of, the certificate has materially failed to comply with this section.

(g) R E-REGISTRATION OF VIOLATORS.—The Secretary shall establish a procedure by which a foreign labor contractor that has had its registration revoked under subsection (f) may seek to re-register under this subtitle by demonstrating to the Secretary’s satisfaction that the foreign labor contractor has not violated this subtitle in the previous 2 years and that the foreign labor contractor has taken sufficient steps to prevent future violations of this subtitle.

SEC. 3606. BONDING REQUIREMENT.

(a) IN GENERAL.—The Secretary shall require a foreign labor contractor to post a bond in an amount sufficient to ensure the ability of the foreign labor contractor to discharge its responsibilities and to ensure protection of workers, including wages.

(b) REGULATIONS.—The Secretary, by regulation, shall establish a system under which the bond amount is determined, paid, and forfeited.

(c) RELATIONSHIP TO OTHER REMEDIES.—The bonding requirements and forfeiture of the bond under this section shall be in addition to other remedies under sections 3610 or any other law.

SEC. 3607. MAINTENANCE OF LISTS.

(a) IN GENERAL.—The Secretary shall maintain—

(1) a list of all foreign labor contractors registered under this subsection, including—

(A) the countries from which the contractors recruit; and

(B) the employers for whom the contractors recruit;

(2) a list of all foreign labor contractors whose certificates of registration the Secretary has revoked.

(b) UPDATES; AVAILABILITY.—The Secretary shall—

(1) update the lists required by subsection (a) on an ongoing basis, not less frequently than every 6 months; and

(2) make such lists publicly available, including through continuous publication on Internet websites and in written form at and on the websites of United States embassies in the official language of that country.

(c) INTER-AGENCY AVAILABILITY.—The Secretary shall share the information described in subsection (a) with the Secretary of State.

SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

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

“(a) A visa shall not be issued under the subparagraph (A)(iii), (B)(i) but only for domestic servants described in clause (i) or (ii) of section 274a.12c(17) of title 8, Code of Federal Regulations (as in effect on December 4, 2007), (G)(v), (H), (J), (L), (Q), (R), or (W) of section 101(a)(15) until the consular officer—

(1) has provided to and reviewed with the applicant, in the applicant’s language (or a language the applicant understands), a copy of the information and resources pamphlet required by section 3602 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1375b); and

(2) has reviewed and made a part of the visa file the foreign labor recruiter disclosures required by section 3602 of the Border Security, Economic Opportunity, and Immigration Modernization Act, including whether the foreign labor contractor is registered pursuant to that section.”.

SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.

(a) IN GENERAL.—The Secretary of State shall ensure that each United States diplomatic mission has a person who shall be responsible for receiving information from any worker who has been subject to violations of this subtitle.

(b) PROVISION OF INFORMATION.—The responsible person referred to in subsection (a) shall ensure that the information received is provided to the Department of Justice, the Department of Labor, or any other relevant Federal agency.

(c) MECHANISMS.—The Attorney General and the Secretary shall ensure that there is a mechanism for any actions that need to be
taken in response to information received under subsection (a).

(d) ASSISTANCE FROM FOREIGN GOVERNMENT.—The person designated for receiving information under paragraph (1) or otherwise, may investigate a foreign labor contractor's compliance with this subtitle, and may investigate employers or foreign labor contractors, including actions occurring in a foreign country, as necessary to determine compliance with this subtitle.

(b) ENFORCEMENT.—(1) IN GENERAL.—A person who believes that he or she has suffered a violation of this subtitle may seek relief from an employer by:

(A) filing a complaint with the Secretary within 3 years after the date on which the employer became aware of the violation; or

(2) the Secretary shall hereinafter be named in the complaint as a defendant and to the employer.

(C) STATUTORY LIMITATIONS.—An action filed in a district court of the United States under paragraph (1) shall be commenced not later than 180 days after the last day of the 120-day period referred to in that paragraph.

(D) JURY TRIAL.—A party to an action brought under paragraph (1) shall be entitled to trial by jury.

(c) ADMINISTRATIVE ENFORCEMENT.—(1) The Secretary finds, after notice and an opportunity for a hearing, any foreign labor contractor or employer failed to comply with any of the requirements of this subtitle, the Secretary may impose the following against such contractor or employer:

(A) a fine in an amount not more than $10,000 per violation; and

(B) upon the occasion of a third violation or a failure to comply with representations, a fine not more than $25,000 for each

(d) AUTHORITY TO ENSURE COMPLIANCE.—The Secretary is authorized to take such actions as are necessary to seek appropriate injunctive relief and recovery of damages, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(e) BONDS.—Pursuant to the bonding requirement in section 3606, bond, liquidation and forfeitures shall be in addition to other remedies under this section or any other law.

(f) CIVIL ACTION.—(1) IN GENERAL.—The Secretary or any person aggrieved by a violation of this subtitle may bring a civil action against any foreign labor contractor that does not meet the requirements under subsection (g) in any court of competent jurisdiction:

(A) to seek remedial action, including injunctive relief;

(B) to recover damages on behalf of any worker harmed by a violation of this section; and

(C) to ensure compliance with requirements of this section.

(g) CIVIL ACTION.—(1) IN GENERAL.—If the Secretary finds, upon the occasion of a third violation, any foreign labor contractor or employer failed to comply with any of the requirements of this subtitle, the Secretary may impose the following against such contractor or employer:

(A) a fine in an amount not more than $10,000 per violation; and

(B) upon the occasion of a third violation or a failure to comply with representations, a fine not more than $25,000 for each
proceedings related to any action taken pursuant to this section.

(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out paragraph (1).

SEC. 3611. DETECTING AND PREVENTING CHILD TRAFFICKING.

The Secretary shall mandate the live training of all U.S. Customs and Border Protection personnel who are likely to come into contact with unaccompanied alien children. The Secretary shall incorporate into the training the services of child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills to assist U.S. Customs and Border Protection in the screening of children attempting to enter the United States.

SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.

(a) SHORT TITLE.—This section may be cited as the “Child Trafficking Victims Protection Act”.

(b) DEFINED TERM.—In this section, the term “unaccompanied alien children” has the meaning given in section 101(a)(32) of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) SCREENING AND TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary shall ensure that all unaccompanied alien children who will undergo any immigration proceedings related to any action taken pursuant to section 235(a)(4) of the William Wilberforce and Nationality Act, including—

(1) are promptly screened and transported to the U.S. Customs and Border Protection ports of entry and stations.

(2) CHILD WELFARE PROFESSIONALS.—The Secretary, in consultation with the Secretary of Health and Human Services, shall ensure that qualified child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills are available at each major port of entry described in subsection (d).

(3) DUTIES.—Child welfare professionals described in paragraph (1) shall—

(A) develop guidelines for treatment of unaccompanied alien children in the custody of the Department;

(B) provide screening of all unaccompanied alien children in accordance with section 235(a)(4) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (12 U.S.C. 1229a(4)); and

(C) notify the Department and the Office of Refugee Resettlement of children that potentially meet the notification and transfer requirements set forth in subsections (a) and (b) of section 238 of such Act (8 U.S.C. 1238);

(D) interview adult relatives accompanying unaccompanied alien children;

(E) provide an initial family relationship and trafficking assessment and recommendations regarding unaccompanied alien children’s initial placements to the Office of Refugee Resettlement, which shall be conducted in accordance with the time frame set forth in subsections (a)(4) and (b)(3) of section 235 of such Act (8 U.S.C. 1235(a)(4)); and

(F) ensure that each unaccompanied alien child in the custody of U.S. Customs and Border Protection—

(i) receives emergency medical care when necessary;

(ii) receives emergency medical and mental health care that complies with the standards adopted pursuant to section 8(c) of the Prison Rape Elimination Act of 2000 (24 U.S.C. 1362)), family, or friends while in the custody of the Department;

(iii) is provided with climate appropriate clothing, shoes, personal hygiene and sanitary products, a pillow, linens, and sufficient meals to rest at a comfortable temperature;

(iv) receives adequate nutrition;

(v) enjoys a safe and sanitary living environment;

(vi) has access to daily recreational programs and activities if held for a period longer than 24 hours;

(vii) has access to legal services and consular officials; and

(viii) is permitted to make supervised phone calls to family members.

(3) QUALIFIED RESOURCES.—

(1) IN GENERAL.—The Secretary shall provide adequately trained and qualified staff and resources, including the accommodation of child welfare officials, in accordance with subsection (b) of section 235 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(2) CHILD WELFARE PROFESSIONALS.—The Secretary shall, in consultation with the Secretary of Health and Human Services, ensure that qualified child welfare professionals are hired to provide assistance, either in person or by other appropriate methods of communication, in not fewer than 7 of the principal Native languages spoken by the unaccompanied alien children who were screened by child welfare professionals.

(3) IMMEDIATE NOTIFICATION.—The Secretary shall notify the Office of Refugee Resettlement of an unaccompanied alien child in the custody of the Department as soon as practicable, but generally not later than 48 hours after the determination that the child is at risk to harm himself, herself, or others;

(4) LOCATION OF UNACCOMPANIED ALIEN CHILDREN.—

(A) the video orientation and written notice of rights is available in English and in any other principal Native language spoken by the unaccompanied children held in custody at that location during the preceding fiscal year;

(B) the oral notice of rights is available in English and in the most common principal Native language spoken by the unaccompanied children held in custody at that location during the preceding fiscal year.

(h) CONFIDENTIALITY.—The Secretary of Health and Human Services shall maintain the confidentiality of all information gathered in the course of providing care, custody, placement, and follow-up services to unaccompanied alien children, consistent with the best interest of the unaccompanied alien child, by not disclosing such information to other government agencies or nonparental third parties unless such disclosure is—

(1) recorded in writing and placed in the child’s file;

(2) in the child’s best interest; and

(3) authorized by an approved sponsor in accordance with section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1235) and the Health Insurance Portability and Accountability Act (Public Law 104-191); or

(2) to utilize all legal authorities to defer the child’s removal if the child faces a risk of life-threatening harm upon return including due to the child’s mental health or medical condition; and

(3) to ensure, in accordance with the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.), that unaccompanied alien children, while in detention, are—

(A) physically separated from any adult who is not an immediate family member; and

(B) separated from—

(i) immigration detainees and inmates with criminal conviction;

(ii) pretrial inmates facing criminal prosecution; and

(iii) inmates exhibiting violent behavior.

(i) REPATRIATION AND REINTEGRATION PROGRAM.—

(1) IN GENERAL.—The Administrator of the United States Agency for International Development, in consultation with the Secretary, the Secretary of Health and Human Services, the Attorney General, international organizations, and nongovernmental organizations in the United States with expertise in repatriation and reintegration, shall create a multi-year program to develop and implement best practices and sustainable programs in the United States and within the country of return to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children in the country of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

(2) LANGUAGES.—The Secretary shall ensure that—

(A) the video orientation and written notice of rights described in paragraph (1) is available in English and in the 5 most common native languages spoken by the unaccompanied children held in custody at that location during the preceding fiscal year; and

(B) the oral notice of rights is available in English and in the most common principal Native language spoken by the unaccompanied children held in custody at that location during the preceding fiscal year.
 SEC. 3701. CRIMINAL STREET GANGS.

(a) INADMISSIBILITY.—Section 212(a)(2)(A) (8 U.S.C. 1182(a)(2)), as amended by section 521(a) of title 18, United States Code, and the alien—

(1) had knowledge that the gang’s members engaged in or have engaged in a continuing series of offenses described in section 521(c) of title 18, United States Code; and

(2) acted with the intention to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in such gang.

(b) IN GENERAL.—Any alien who is 18 years of age or older, who is physically present outside the United States, whom the Secretary determines by clear and convincing evidence, based upon law enforcement information deemed credible by the Secretary, has, since the age of 18, knowingly and willingly participated in a criminal street gang with knowledge that such participation promoted or furthered the illegal activity of such gang.

(c) WAIVER.—The Secretary may waive the application of paragraph (1) if the alien has renounced all association with the criminal street gang, is otherwise admissible, and is not a threat to the security of the United States.

SEC. 3702. BANNING HABITUAL DRUNK DRIVERS FROM THE UNITED STATES.

(a) GROUNDS FOR INADMISSIBILITY.—Section 212(a)(2)(A) (8 U.S.C. 1182(a)(2)), as amended by section 5701(a)(2), is further amended—

(1) by redesignating subparagraph (F) as subparagraph (L); and

(2) by inserting after subparagraph (E) the following:

"(F) HABITUAL DRUNK DRIVERS.—An alien convicted of 3 or more offenses under paragraph (1) if the alien had been convicted of 3 or more misdemeanor offenses under title 18, United States Code, for driving while under the influence of or driving while intoxicated, at least 1 of which occurred after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, is deportable."

(b) GRAPES FOR DEPORTATION.—Section 277(a)(2) (8 U.S.C. 1252(a)(2)) is amended by adding at the end the following:

"(D) if the violation occurred after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the alien is deportable."
subject to a civil penalty under this subsection.

(‘‘c) FRAUDULENT MARRIAGE.—An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined not more than $250,000, or both.

(d) COMMERCIAL ENTERPRISES.—Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with title 18, United States Code, or both.

(b) REMOVAL OF ALIEN:—The table of contents is amended by striking the item relating to section 275 and inserting the following:

Sec. 276. Illegal entry.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 3705. REENTRY OF REMOVED ALIEN.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

SEC. 276. REENTRY OF REMOVED ALIEN.

(a) ILLEGAL REENTRY.—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 in effect shall be fined not more than $250,000, or both.

(b) REMOVAL OF ALIEN:—The table of contents is amended by striking the item relating to section 275 and inserting the following:

Sec. 276. Illegal entry.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 3706. PENALTIES RELATING TO VESSELS AND AIRCRAFT.

Section 239(c) (8 U.S.C. 1253(c)) is amended as follows:

(1) by striking ‘‘Attorney General’’ each place such term appears and inserting ‘‘Secretary of Homeland Security’’;

(2) by striking ‘‘Commissioner’’ each place such term appears and inserting ‘‘Secretary of Homeland Security’’; and

(3) in paragraph (1):–

(A) in subparagraph (A), by striking ‘‘$2,000’’ and inserting ‘‘$5,000’’;

(B) in subparagraph (B), by striking ‘‘$5,000’’ and inserting ‘‘$10,000’’;

(C) by amending subparagraph (C) to read as follows:

‘‘(C) COMPROMISE.—The Secretary of Homeland Security, in the Secretary’s unreviewable discretion and upon the receipt of a written request, may mitigate the monetary penalties required under this subsection for each alien stay away to an amount equal to not less than $2,000, upon such terms that the Secretary determines to be appropriate.’’;

and

(D) by inserting at the end the following:

‘‘(D) EXCEPTION.—A person, acting without consideration or the expectation of compensation, is not subject to penalties under this paragraph if the person is—

(i) providing, or attempting to provide, an alien with humanitarian assistance, including emergency medical care or food or water; or

(ii) transporting the alien to a location where such humanitarian assistance can be rendered without compensation or the expectation of compensation.’’

SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) TRAFFICKING IN PASSPORTS.—Section 1541 of title 18, United States Code, is amended to read as follows:

‘‘1541. Trafficking in passports

(a) MULTIPLE PASSPORTS.—Subject to subsection (b), any person who, during any period of 3 years or less, knowingly—

(1) and without lawful authority produces, issues, or transfers 3 or more passports, knowing the passports to be forged, counterfeited, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

(2) forges, counterfeits, alters, or falsely makes 3 or more passports;

(3) secures, possesses, uses, receives, buys, sells, gives, lends, leases, transfers, or distributes 3 or more passports, including the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

(4) completes, mails, presents, prepares, signs, or submits 3 or more applications for a United States passport, knowing the applications to contain any materially false statement or representation, shall be fined under this title, imprisoned not more than 20 years, or both.

(b) USE IN A TERRORISM OFFENSE.—Any person who commits a passport offense described in subsection (a) to facilitate an act of international terrorism (as defined in section 2331) shall be fined under this title, imprisoned not more than 20 years, or both.

(c) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, buys, sells, gives, lends, leases, transfers, or distributes 3 or more passports, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.

(b) FALSE STATEMENT IN AN APPLICATION FOR A PASSPORT.—Section 1542 of title 18, United States Code, is amended to read as follows:
§1542. False statement in an application for a passport

(a) IN GENERAL.—Any person who knowingly makes any material false statement or representation in an application for a United States passport, or mails,prepares,presents,or signs an application for a United States passport knowing the application to contain any material false statement or representation,shall be fined under this title,imprisoned not more than 25 years (if the offense was committed to facilitate a drug trafficking crime as defined in section 2331 of this title),20 years (if the offense was committed to facilitate a drug trafficking crime as defined in section 2331 of this title), or 10 years, or both.

(b) Venue.—(1) IN GENERAL.—An offense under subsection (a) may be prosecuted in any district—

(A) in which the false statement or representation was made or the application for a United States passport was prepared or signed; or

(B) in which or to which the application was mailed or presented.

(2) Exception outside the United States.—An offense under subsection (a) involving an application prepared and adjudicated outside the United States may be prosecuted in any district in which the resultant passport was or would have been produced.

(c) Savings Clause.—Nothing in this section may be construed to limit the venue otherwise available under sections 3237 and 3238 of this title.

(1) False statement in an application for a passport.—Section 1544 of title 18, United States Code, is amended to read as follows:

§1544. Misuse of a passport

(a) Any person who knowingly—

(1) makes an attempt to misuse for their own purposes any passport issued or designed for the use of another;

(2) uses or attempts to use any passport in violation of the laws, regulations, or rules governing the issuance and use of the passport;

(3) secures, possesses, uses, receives, buys, sells, or distributes 3 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.

(b) False immigration documents.—Any person who knowingly and without lawful authority produces, issues, or transfers 3 or more immigration documents, or uses any official material (or counterfeit of any official material) used to make 10 or more immigration documents, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, 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, issues, or transfers immigration documents, including any distinctive paper, seal, hologram, image, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.

(1) ALTERNATIVE IMPRISONMENT MAXIMUM FOR CERTAIN OFFENSES.—Section 1547 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "(other than an offense under section 1545)";

(2) in paragraph (1), by striking "15" and inserting "20"; and

(3) in paragraph (2), by striking "20" and inserting "25".

(2) Authorized law enforcement activities.—Chapter 75 of title 18, United States Code, is amended by adding after section 1557 the following:

§1545. Authorized law enforcement activities

"Nothing in this chapter may be construed to prohibit—

(1) 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

(2) any activity authorized under title V of the Organized Crime Control Act of 1970 (Public Law 91–452; 84 Stat. 933)."

(b) Table of sections amendment.—The table of sections for chapter 75 of title 18, United States Code, is amended to read as follows:

Sec. 1541. Trafficking in passports.
SEC. 3710. DIRECTIVES RELATED TO PASSPORT AND DOCUMENT FRAUD.

(a) Directive to the United States Sentencing Commission.—

(1) In general.—A person, other than an alien, who has

(i) made, or consents to the making

(ii) of passport or immigration documents

(iii) without lawful authority

(iv) for the purpose of avoiding

(b) Persons subject to section 101(b)(3) of the

(c) Inapplicability.—No provision of section 212(a)(9)(A)(iii) of the

(d) Inapplicability to aliens lawfully admitted for temporary stay.

(e) Exemption to application of section 212(a)(9)(A)(iii) to aliens lawfully admitted for temporary stay.

(f) Review of the Sentencing Guidelines

(g) Judicial review of the Attorney General’s decision

(h) Preliminary application for removal

(i) Waiver of deportation

(j) Waiver of deportation.

(k) Waiver of deportation.

(l) Waiver of deportation.

(m) Waiver of deportation.

(n) Waiver of deportation.

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(pp) Waiver of deportation.

(qq) Waiver of deportation.

(rr) Waiver of deportation.

(ss) Waiver of deportation.

(tt) Waiver of deportation.

(uu) Waiver of deportation.

(vv) Waiver of deportation.

ww) Waiver of deportation.

xx) Waiver of deportation.

yy) Waiver of deportation.

zz) Waiver of deportation.
“(B) under circumstances in which the persons are in fact seeking to enter the United States without official permission or legal authority; and
“(c) in the case of a violation involving robbery or extortion, as defined in section 2119 of title 18, imprisonment for not more than 30 years, or both; and
“(d) in the case of a violation involving the bribery or corruption of a U.S. or foreign government official, be fined under title 18, imprisoned for not more than 30 years, or both;
“(e) in the case of a violation involving the bribery or corruption of a U.S. or foreign government official, be fined under title 18, imprisoned for not more than 30 years, or both;
“(f) in the case of a violation involving make false statements, and (4) in the case of a violation involving a violation that is a violation of law, nor does it include authorization of the Secretary; and
“SEC. 3716. OVERSIGHT OF DETENTION FACILITIES.
“(a) Definitions.—In this section:
“(1) APPLICABLE STANDARDS.—The term ‘applicable standards’ means the most recent version of detention standards and detention-related policies issued by the Secretary or the Director of U.S. Immigration and Customs Enforcement.
“(b) DETENTION FACILITY.—The term ‘detention facility’ means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Director.
“(c) OVERSIGHT REQUIREMENTS.—The Secretary shall ensure that all persons detained pursuant to the Immigration and Nationality Act (8 U.S.C. 1226) are treated humanely and benefit from the protections set forth in this section.
“(d) ANNUAL INSPECTION.—All detention facilities shall be inspected by the Secretary on a regular basis, but not less than annually, for compliance with applicable detention standards issued by the Secretary and other applicable regulations.
“(2) ROUTINE OVERSIGHT.—In addition to annual inspections, the Secretary may conduct routine oversight of detention facilities, including unannounced inspections.
“(3) AVAILABILITY OF RECORDS.—All detention facility contracts and agreements, and evaluations and reviews shall be considered records for purposes of section 552(f)(2) of title 5, United States Code.
“(4) CONSULTATION.—The Secretary shall seek input from nongovernmental organizations regarding their independent opinion of specific facilities.
“(e) ORGANIZATIONAL MECHANISMS.—
“(1) AGREEMENTS.—
“(a) NEW AGREEMENTS.—Compliance with applicable standards of the Secretary and all applicable regulations and meaningful financial penalties for failure to comply, shall be a material term in any new contract, memorandum of agreement, or any renegotiation, modification, or renewal of an existing contract or agreement, including fee negotiations, executed with detention facilities.
(B) EXISTING AGREEMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall secure a modification incorporating these terms for any existing contracts or agreements that will not be renegotiated, renewed, or otherwise modified.

(C) CANCELLATION OF AGREEMENTS.—Unless the Secretary provides a reasonable extension to a specific detention facility that is negotiating in good faith, contracts or agreements with detention facilities that are not modified within the date of the enactment of this Act will be cancelled.

(D) PROVISION OF INFORMATION.—In making modifications pursuant to paragraph (B), the Secretary shall require that detention facilities provide to the Secretary all contracts, memoranda of agreement, evaluations, and reviews regarding the facility on a regular basis. The Secretary shall make these materials publicly available.

(2) FINANCIAL PENALTIES.

(A) REQUIREMENT TO IMPOSE.—Subject to subparagraph (C), the Secretary shall impose meaningful financial penalties upon facilities that fail to comply with applicable detention standards prescribed by the Secretary and other applicable regulations.

(B) TIMING OF IMPOSITION.—Financial penalties imposed under subparagraph (A) shall be imposed immediately after a facility fails to achieve an adequate or the equivalent median score in any performance evaluation.

(C) WAIVERS.—The requirements of subparagraph (A) provided if the facility corrects the noted deficiencies and receives an adequate score in not more than 90 days.

(D) MULTIPLE OFFENDERS.—In cases of persistent and substantial noncompliance, including scoring less than adequate or the equivalent median score in 2 consecutive inspections, the Secretary shall terminate contracts with such facilities within 60 days, or in the case of facilities operated by the Secretary, such facilities shall be closed within 90 days.

(e) REPORTING REQUIREMENTS.

(i) OBJECTIVES.—Not later than June 30 of each year, the Secretary shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on inspection and oversight activities of detention facilities.

(ii) REPORTS.—Each report submitted under paragraph (i) shall include—

(A) a description of each detention facility found to be in noncompliance with applicable detention standards, including deficiencies issued by the Secretary and other applicable regulations;

(B) a description of the actions taken by the Secretary to ensure compliance with such standards.

(iii) INFORMATION.—Subject to subparagraph (C), the Secretary shall require that detention facilities provide to the Secretary all contracts, memoranda of agreement, evaluations, and reviews regarding the facility on a regular basis. The Secretary shall make these materials publicly available.

(2) LIMITATIONS ON SOLITARY CONFINEMENT.

(A) IN GENERAL.—An alien may not be placed in involuntary solitary confinement for an alien's own protection or to protect staff or others in general population.

(B) LIMITATIONS ON SOLITARY CONFINEMENT.

(i) IN GENERAL.—The use of solitary confinement of an alien in custody pursuant to section 236(c) or certified under section 236A, or section 241 shall be limited to situations in which such confinement—

(aa) is necessary to control a threat to detainers, staff, or the security of the facility;

(bb) to discipline the alien for a serious disciplinary infraction if alternative sanctions would not adequately regulate the alien's behavior;

(cc) for good cause during the last 24 hours before an alien is released, removed, or transferred because of the alien's behavior; or

(ii) is limited to the briefest term and under the least restrictive conditions practicable and consistent with the rationale for placement and with the progress achieved by the alien.

(iii) complies with the requirements set forth in this subparagraph.

(ii) CHILDREN.—Children who are younger than 18 years of age may not be placed in solitary confinement.

(iii) SERIOUS MENTAL ILLNESS.—

(A) IN GENERAL.—An alien with a serious mental illness may not be placed in involuntary solitary confinement due to mental illness unless—

(aa) the less restrictive alternative is more likely than not to cause greater harm to the alien than the solitary confinement period imposed; or

(bb) the likely harm to the alien is not substantial and the period of solitary confinement is the least restrictive alternative necessary to protect the alien, other detainees, or others.

(iv) OWN PROTECTION.

(A) IN GENERAL.—Involuntary solitary confinement for an alien's own protection may be used only for the least amount of time practicable and if no readily available and less restrictive alternative will maintain the alien's safety.

(B) LIMITATIONS ON SOLITARY CONFINEMENT.

(i) IN GENERAL.—Section 236(d) (8 U.S.C. 1226(d)) is amended by adding at the end the following:

"(f) PROCEDURES FOR BOND HEARINGS AND FILING OF NOTICES TO APPEAR.

(a) ALIENS IN CUSTODY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following:

"(f) PROCEDURES FOR CUSTODY HEARINGS.—For any alien taken into custody under any provision of this Act, with the exception of minors being transferred to or in the custody of the Office of Refugee Resettlement, the following shall apply:

"(1) The Secretary of Homeland Security shall, without unnecessary delay and not later than 72 hours after the alien is taken into custody, file the Notice to Appear or other relevant charging document with the immigration court having jurisdiction over the location where the alien was apprehended, and serve such notice on the alien.

"(2) The Secretary shall immediately determine whether the alien remains in custody or be released and, without unnecessary delay and not later than 72 hours after the alien was taken into custody, serve upon the attorney for the alien and the immigration judge the reasons for continued custody and the amount of bond if any.

"(3) The Attorney General shall ensure that the alien has the opportunity to appear before an immigration judge for a custody determination hearing promptly after service of the Secretary's custody decision. The immigration judge shall review the alien's motion and upon a showing of good cause, postpone a custody determination hearing for no more than 72 hours after service of the custody decision, except that in no case shall the hearing occur more than 6 days (including weekends and holidays) after the alien was taken into custody.

"(4) The immigration judge shall advise the alien of the right to postpone the custody determination hearing and shall, on the oral or written request of the individual, postpone the determination hearing for a period of not more than 14 days.

"(5) Except for aliens that the immigration judge has determined are deportable under section 236(c), the immigration judge shall review the custody determination de novo and may continue to detain the alien only if the Secretary demonstrates that no conditions, including the use of alternatives to detention that maintain custody over the alien, will reasonably assure the appearance of the alien as required, and the safety of any other person and the community. For aliens whom the immigration judge has determined are deportable under section 236(c), the immigrant judge may continue to detain if the Secretary agrees the alien is a danger to the community, and alternatives to detention exist that ensure the appearance of the alien, as required, and the safety of any other person and the community.

"(6) In the case of any alien remaining in custody after a custody determination, the Attorney General shall provide a de novo custody determination hearings before an immigration judge every 90 days so long as the alien remains in custody. At any time a de novo custody determination hearing for no more than 14 days.

"(7) The Secretary shall inform the alien of his or her rights under this paragraph at the time the alien is taken into custody.

"(b) LIMITATIONS ON SOLITARY CONFINEMENT.

"(1) IN GENERAL.—Section 236(d) (8 U.S.C. 1226(d)) is amended by adding at the end the following:

"(f) NATURE OF DETENTION.—

(A) DEFINITIONS.—In this paragraph:

"(i) ADMINISTRATIVE SEGREGATION.—The term ‘administrative segregation’ means a nonpunitive form of solitary confinement for administrative reasons.

"(ii) DISCIPLINARY SEGREGATION.—The term ‘disciplinary segregation’ means a punitive form of solitary confinement for disciplinary reasons.

"(iii) SERIOUS MENTAL ILLNESS.—The term ‘serious mental illness’ means a substantial physical or mental disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

"(iv) MEDICAL CARE.—An alien placed in solitary confinement—

(aa) a mental health clinician determines that such detention is having a significant negative impact on the alien’s mental health;

(bb) an appropriate alternative is available.
...
in removal proceedings, the following information with respect to each such alien:

1. The immigration charges that are the basis for the alien's removal proceedings, including a summary of the immigration charges and the date of such charge.
2. The gender and age of the alien.
3. The status of the alien's removal proceedings on which those proceedings progress from one stage of proceeding to another.
4. The statutory basis for any bond hearing conducted and the outcomes of the bond hearing.
5. Whether each court hearing is conducted by person, by audio link, or by video conferencing.
6. The date of each attorney entry of appearance before an immigration judge using Form EOIR–28 and the scope of the appearance to which the form related.
7. Maintenance of information by U.S. Customs and Border Protection.
   - The Commissioner shall record and maintain in the database of U.S. Customs and Border Protection relating to detained aliens the following information with respect to each alien detained pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.):
     1. The provision of law that provides specific authority for the alien's detention, and the beginning and end dates of the alien's detention.
     2. The place where the alien was apprehended.
     3. The gender and age of the alien.
   - Each location where U.S. Customs and Border Protection detains the alien until the alien is released from custody or removed from the United States, including any period of detention.
   - The number of days that the alien is detained in the custody of U.S. Customs and Border Protection.
   - The immigration charges that are the basis for the alien's removal proceedings while the alien is in the custody of U.S. Customs and Border Protection.
   - The initial custody determination by U.S. Customs and Border Protection, including whether the alien received notice of a custody determination or review, when the custody determination or review took place, and whether U.S. Customs and Border Protection conducted a detention of stipulated removal to a detained alien.
   - The reason for the alien's release from detention and the conditions of release to detention, if applicable.
   - Reporting requirements.
     - Periodic reports.
       - The Assistant Secretary of the Executive Office of Immigration Review, and the Commissioner shall periodically, but not less frequently than annually, submit to Congress a report on a summary of the information required to be maintained by this section. Each such report shall include summaries of national-level data as well as summaries of the information required by this section by State and county.
     - Other reports.
       - The Assistant Secretary shall report to Congress not less frequently than annually on:
         1. The number of aliens detained for more than 3 months, 6 months, 1 year, and 2 years; and
         2. The average period of detention before receipt of a final administrative order of removal and after receipt of such an order.
   - Availability to public.
   - The reports required in subsection (a) and the information for each alien on which the reports are based shall be made available to the public without the need to submit a request under title 5, United States Code (commonly referred to as the “Freedom of Information Act”).

Privacy protections.
- No alien's identity may be disclosed when information described in paragraph (3) is made publicly available.

Definitions.
- In this section:
  1. Case outcome.
     - The term “case outcome” includes a grant of relief from deportation, removal, reinstatement, or voluntary departure pursuant to section 240B of the Immigration and Nationality Act (8 U.S.C. 1255b), voluntary departure pursuant to section 240B of that Act (8 U.S.C. 1225b), removal pursuant to section 231F of that Act (8 U.S.C. 1225a), and removal pursuant to section 231F of that Act (8 U.S.C. 1225b), judicial termination of proceedings by the Board of Immigration Appeals, termination of proceedings by U.S. Immigration and Customs Enforcement, cancellation of the notice to appear, or permission to withdraw application for admission without any removal order being issued.
  2. Place where the alien was apprehended.
  3. Reason for the alien's release from detention.
     - The term “reason for the alien's release from detention” refers to release on bond, on an alien's own recognizance, on humanitarian grounds, after grant of relief, or due to termination of proceedings or removal.
  4. Removal proceedings.
     - The term “removal proceedings” refers to a removal case of any kind, including expedited removal, administrative removal, reinstatement, and voluntary removal and removals in which an applicant is permitted to withdraw his or her application for admission.
  5. Stage.
  6. Reason for the alien's release from detention.
     - The term “reason for the alien's release from detention” refers to release on bond, on an alien's own recognizance, on humanitarian grounds, after grant of relief, or due to termination of proceedings or removal.

Maintenence of information by U.S. Customs and Border Protection.
- The Commission shall record and maintain in the database of U.S. Customs and Border Protection the following:
  1. The provision of law that provides specific authority for the alien's detention, and the beginning and end dates of the alien's detention.
  2. The place where the alien was apprehended.
  3. The gender and age of the alien.
  4. Each location where U.S. Customs and Border Protection detains the alien until the alien is released from custody or removed from the United States, including any period of detention.
  5. The number of days that the alien is detained in the custody of U.S. Customs and Border Protection.
  6. The immigration charges that are the basis for the alien's removal proceedings while the alien is in the custody of U.S. Customs and Border Protection.
  7. The initial custody determination by U.S. Customs and Border Protection, including whether the alien received notice of a custody determination or review, when the custody determination or review took place, and whether U.S. Customs and Border Protection conducted a detention of stipulated removal to a detained alien.
  8. The reason for the alien's release from detention and the conditions of release to detention, if applicable.
  9. Reporting requirements.

PERIODIC REPORTS.
- The Assistant Secretary shall report to Congress not less frequently than annually that:
  1. The number of enforcement actions at or focused on a sensitive location.
  2. The number of enforcement actions where officers or agents were subsequently led to or near a sensitive location.
  3. The date, site, and State, city, and county in which each enforcement action covered by clause (i) occurred.
  4. The component of the agency responsible for each such enforcement action.
  5. A description of the intended target of each such enforcement action.
  6. The number of individuals, if any, arrested or taken into custody through each such enforcement action.
  7. The number of collateral arrests, if any, from each such enforcement action and the reasons for each such arrest.
  8. A certification of whether the location administrator was contacted prior to, during, or after each such enforcement action.
  9. Each report under this paragraph shall be made available to the public without the need to submit a request under section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”).

In this subsection:
- (A) The term ‘appropriate committees of Congress’ means—
  1. The Committee on Homeland Security and Governmental Affairs of the Senate;
  2. The Committee on the Judiciary of the Senate;
  3. The Committee on Homeland Security of the House of Representatives; and
  4. The Committee on the Judiciary of the House of Representatives.
- (B) The term ‘enforcement action’ means an arrest, interview, search, or surveillance for the purposes of immigration enforcement, and includes an enforcement action at or near a sensitive location that is part of a joint case led by another law enforcement agency.
- (C) The term ‘exigent circumstances’ means a situation involving:—
  1. The imminent risk of death, violence, or physical harm to any person, including a
situation implicating terrorism or the national security of the United States in some other manner.

(ii) The immediate arrest or pursuit of a dangerous felon, terrorist suspect, or other individual presenting an imminent danger or public safety risk.

(iii) The imminent risk of destruction of evidence that is material to an ongoing criminal case.

(4) The term ‘prior approval’ means the following:

(i) In the case of officers and agents of U.S. Immigration and Customs Enforcement, prior written approval for a specific, targeted operation from one of the following officials:


(b) The Executive Associate Director of Homeland Security Investigations.

(c) The Assistant Director for Field Operations, Enforcement, and Removal Operations.

(5) The Executive Associate Director for Field Operations, Enforcement, and Removal Operations.

(ii) In the case of officers and agents of U.S. Customs and Border Protection, prior written approval for a specific, targeted operation from one of the following officials:

(a) A Chief Patrol Agent.

(b) The Director of Field Operations.

(c) The Director of Air and Marine Operations.

(iv) The Internal Affairs Special Agent in Charge.

(6) The term ‘sensitive location’ includes the following:

(a) Hospitals and health clinics.

(b) Public and private schools (including pre-schools, primary schools, secondary schools, postsecondary schools (including colleges and universities), and other institutions of learning such as vocational or trade schools).

(c) Organizations assisting children, pregnant women, victims of crime or abuse, or individuals with mental or physical disabilities.

(d) Churches, synagogues, mosques, and other places of worship, such as buildings rented for the purpose of religious services.

(e) Other locations as the Secretary of Homeland Security shall specify for purposes of this section.

SEC. 3801. SHORT TITLE.

This subtitle may be cited as the “Humane Enforcement and Legal Protections for Separated Children Act” or the “HELP Separated Children Act”.

SEC. 3802. DEFINITIONS.

In this subtitle:

(a) APPEHENSION.—The term “apprehension” means the detention or arrest by officials of the Department or cooperating entities.

(b) CHILD.—The term “child” means an individual who has not attained 18 years of age.

(c) CHILD WELFARE AGENCY.—The term “child welfare agency” means a State or local agency responsible for child welfare services under subparts B and E of title IV of the Social Security Act (42 U.S.C. 600 et seq.).

(d) COOPERATING ENTITY.—The term “cooperating entity” means a State or local entity entering under agreement with the Secretary.

(e) DETENTION FACILITY.—The term “detention facility” means a Federal, State, or local immigration detention facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Director.

(f) IMMIGRATION ENFORCEMENT.—The term “immigration enforcement” means the apprehension of 1 or more individuals whom the Department has reason to believe are removable from the United States by the Secretary or a cooperating entity.

(g) PARENT.—The term “parent” means a biological or adoptive parent of a child, whose parental rights have not been relinquished or terminated under State law or the law of a foreign country, or a legal guardian under State law or the law of a foreign country of a child in the United States.

(h) MENTAL OR PHYSICAL DISABILITY.—The term “mental or physical disability,” for purposes of this subsection, means physical, mental, or learning disabilities.

(i) ABLE TO FULLY COMPLY.—The term “able to fully comply” means that an individual is able to fully comply with all family court orders impacting the safety of their children and in the course of such actions enter into no agreement that is inconsistent with the protections of this subtitle as well as information on potential eligibility for parole or release.

SEC. 3803. ACCESS TO CHILDREN, STATE AND LOCAL COURTS, CHILD WELFARE AGENCIES, AND CONSULAR OFFICIA L.

At all detention facilities, the Secretary shall—

(a) promptly post in a manner accessible to detainees and visitors and include in detainee handbooks information on the protections of this subtitle as well as information on potential eligibility for parole or release;

(b) and in the course of such actions enter into no agreement that is inconsistent with the protections of this subtitle as well as information on potential eligibility for parole or release;

(c) the Department and are parents of children in the United States are—

(i) permitted regular phone calls and contact visits with their children; and

(ii) provided with contact information for child welfare agencies and family courts in the relevant jurisdictions;

(d) able to participating fully and, to the extent possible, in all family court proceedings and any other proceedings that may impact their right to custody of their child;

(e) and in the course of such actions enter into no agreement that is inconsistent with the protections of this subtitle as well as information on potential eligibility for parole or release.

(f) able to fully comply with all family court or child welfare agency orders impacting the custody of their children;

(g) able to fully comply with all family court or child welfare agency orders impacting the custody of their children;

(h) and in the course of such actions enter into no agreement that is inconsistent with the protections of this subtitle as well as information on potential eligibility for parole or release.

SEC. 3805. MANDATORY TRAINING.

The Secretary, in consultation with the Secretary of Health and Human Services, the Secretary of State, the Attorney General, and independent child welfare and family law experts, shall develop and provide training on the protections provided under sections 3803 and 3804 to all personnel of the Department, cooperating entities, and detention facilities operated by or under agreement with the Department who regularly engage in immigration enforcement actions and in the course of such actions enter into no agreement that is inconsistent with the protections of this subtitle as well as information on potential eligibility for parole or release.
contact with individuals who are parents or primary caregivers of children in the United States.

SEC. 3806. RULEMAKING.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement sections 3803 and 3804 of this Act.

SEC. 3807. SEVERABILITY.

If any provision of this subtitle or amendment made by this subtitle, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this subtitle and amendments made by this subtitle, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

Subtitle I—Providing Tools To Exchange Visitors and Exchange Visitor Sponsors To Protect Exchange Visitor Program Participants and Prevent Trafficking

SEC. 3901. DEFINITIONS.

(a) In General.—Except as otherwise provided by this subtitle, the term "exchange visitor program" shall have the meanings, respectively, as are given those terms in section 3902 of this Act or the Labor Standards Act of 1938 (29 U.S.C. 203). Except that the term "employer" shall also include a prospective employer seeking to hire exchange visitors with whom the sponsor has a contractual relationship.

(b) Other Definitions.

(1) Exchange Visitor.—The term "exchange visitor" means a foreign national who is inquiring about or applying to participate in the exchange visitor program or who has successfully applied and has completed all the requirements of the program not funded by the United States Government as governed by sections 2.22, 22.24, 22.30, 22.31, and 22.32 of title 22, Code of Federal Regulations.

(2) Exchange Visitor Program.—The term "exchange visitor program" means the international exchange program administered by the Department of State to implement the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), by means of education, cultural, and other programs.

(3) Exchange Visitor Program Recruitment Activities.—The term "exchange visitor program recruitment activities" means activities undertaken by an exchange program not funded by the United States Government to attract students to the United States, including outreach to foreign nationals in their home countries and other activities that may take place outside the United States.

(4) Exchange Visitor Program Sponsor; Sponsor.—The term "exchange visitor program sponsor" or "sponsor" means a legal entity designated by the Secretary of State, in the Secretary's discretion, to conduct an exchange visitor program governed by sections 3903 and 3904 of this Act.

(5) Host Entity.—The term "host entity" means a person contracted by a sponsor to engage in exchange visitor program recruitment activities on the sponsor's behalf and any subcontractors thereof.

(6) Host Entity.—The term "host entity" means "host organization", "primary or secondary accredited educational institution", "camp facility", "host family", and "employer/host employer" as used in sections 22.22, 22.24, 22.30, 22.31, and 22.32 of title 22, Code of Federal Regulations.

(7) Any reference to any provision of regulations shall include any successor provision addressing the same subject matter.

SEC. 3902. DISCLOSURE.

(a) Requirement for Disclosure at Time of Exchange Visitor Program Recruitment Activity.—Any person who engages in exchange visitor program recruitment activity shall develop certain information, including a written description in English to the exchange visitor before the exchange visitor pays fees described in section 3904, other than refundable fees, on the terms of the program, and may provide to the exchange visitor, or otherwise detrimentally relies on information provided by an exchange program sponsor or foreign entity. This information shall be provided to the Secretary of State, or an exchange visitor requesting his or her own file, within 5 business days of request, consistent with program regulations at part 62 of title 22, Code of Federal Regulations. Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Labor, amend such regulations to reflect the information to be disclosed, including the following:

(1) The identity and address of the exchange visitor program sponsor, host entity, and any foreign entity with authority to charge fees and costs under section 3904.

(2) All assurances and terms and conditions of employment, from the prospective host entity, including the place and period of employment, job duties, number of work hours, wages and compensation, and any deductions from wages and benefits, including deductions for housing and transportation. Nothing in this paragraph shall be construed to permit any charge, deduction, or expense prohibited by this or any other law.

(3) A copy of the prospective agreement between the exchange visitor program sponsor, exchange visitor, and host entity.

(4) Information regarding the terms and conditions of the nonimmigrant status under which the exchange visitor is to be admitted, and the period of stay in the United States allowed for such nonimmigrant status.

(5) A copy of the fee disclosure form as described in section 3904(d) listing the mandatory and optional costs or expenses to be charged to the exchange visitor.

(6) The existence of any labor organizing effort, collective bargaining activity, labor contract, current or pending, or other labor dispute at the host entity.

(7) Whether and the extent to which exchange visitors will be compensated through workers' compensation, private insurance, or any other form of work-related injuries and death, during the period of employment.

(8) A description of the sanctions the exchange visitor program sponsor is currently subject to, if any, as imposed by the Department of State.

(9) A description in a form specified by the Secretary of State—

(A) stating that in accordance with guidelines and regulations promulgated by the Secretary—

(i) the costs and fees charged by the exchange visitor program sponsor, foreign entity, and host entity do not exceed those permitted by this section, including when such activity occurs wholly outside the United States; and

(ii) the exchange visitor program sponsor, foreign entity, and host entity do not bear costs, or fees not provided for in section 3904, but that fees under that section cannot be passed along to the exchange visitor.

(B) listing any required or optional costs or expenses to be provided or required, other than education or training provided in accordance with section 22.10(b) and (c) of title 22, Code of Federal Regulations, such as "pre-arrival orientation" and "orientation" and additional orientation and training requirements as described in each relevant category under sections 62.22, 62.24, 62.30, 62.31, and 62.32 of that title.

(11) A clear statement explaining that—

(A) except as provided in subparagraph (B), no additional significant changes may be made to the original contract signed with a handwritten, electronic, or digital pin code signature by the exchange visitor within 24 hours to consider such changes, and the specific consent of the exchange visitor, obtained voluntarily and without threat of penalty, and such changes have been approved by the exchange visitor 24 hours to consider them in order to protect the health or welfare of the exchange visitor.

(B) changes may be made to the conditions of employment contained in the original contract even if the exchange visitor has not had 24 hours to consider such changes, provided the exchange visitor has specifically consented to the changes, voluntarily and without threat of penalty, and such changes have been approved by the exchange visitor 24 hours to consider them in order to protect the health or welfare of the exchange visitor.

(c) Requirement for Rules.—The Secretary of State shall define by rule or guidance what constitutes "refundable fees" and "reasonable nonrefundable deposit" for the purpose subsection (a).

(d) Relationship to Labor and Employment Laws.—Nothing in the disclosure requirements or regulations required by subsection (a) shall constitute a legal conclusion as to the exchange visitor's status or rights under the labor and employment laws.

(e) Prohibition on False and Misleading Information and Certain Fees.—No exchange visitor program sponsor, foreign entity, or host entity who engages in any exchange visitor program activity shall knowingly provide materially false or misleading information to any exchange visitor concerning any matter required to be disclosed under subsection (a). Charging fees for services not provided or assessed fees that exceed the amounts established by the Secretary of State pursuant to section 3904 is a violation of this section. The disclosure required by this section is a document concerning the proper administration of a matter within the jurisdiction of a department or agency of the United States for the purpose of section 1519 of title 18, United States Code, and other provisions of such title.

SEC. 3903. PROHIBITION ON DISCRIMINATION.

(a) In General.—It shall be unlawful for an exchange visitor program sponsor, foreign entity, or host entity to refuse to accept an individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, creed, sex, national origin, religion, age, or disability.

(b) Determinations of Discrimination.—For the purposes of determining the existence of unlawful discrimination under subsection (a),—

(1) in the case of a claim of discrimination based on race, color, sex, national origin, or religion, the same legal standards shall apply as are applied under the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
(2) In the case of a claim of discrimination based on age, the same legal standards shall apply as are applicable under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(3) In the case of a claim of discrimination based on disability, the same legal standards shall apply as are applicable under title I of the Americans with Disabilities Act of 1990 as amended (42 U.S.C. 12111 et seq.).

SEC. 3904. FEES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Labor, shall promulgate regulations to set limits on the mandatory fees charged to exchange visitor program sponsors, host entities, and their foreign entities to the exchange visitor. In promulgating such regulations, the Secretary of State shall conduct public meetings with exchange visitor program sponsors, organizations representing exchange visitors, and members of the public with expertise in public diplomacy, educational and cultural exchange, labor markets, labor relations, migration, civil rights, human rights, and prohibiting trafficking. The Secretary of State may, in the Secretary's discretion, consider factors including what costs are within the control of sponsors, differences among programs and countries, and the amount of educational and cultural activities included, and services rendered.

(b) MAXIMUM FEES.—It shall be unlawful for any sponsor to charge a fee higher than the maximum allowable fee as established by regulations promulgated under subsection (a), and any person who charges a higher fee shall be liable under this subtitle. If a fee higher than the maximum is charged by a sponsor or foreign entity, the sponsor shall be liable for a fee higher than the maximum allowable fee charged is by the host entity or a host entity's agent, the host entity shall be liable.

(c) UPDATE OF MAXIMUM FEES.—The Secretary of State shall update the maximum allowable fees described in subsection (a) in response to changing economic conditions and other factors as needed.

(d) FEES TRANSPARENCY.—The Secretary of State shall amend its regulations at part 62 of title 22, Code of Federal Regulations, to require exchange visitor program sponsors to—

(1) provide the Department of State annually with a list of fees charged to exchange visitor program participants including by their foreign entities, subcontractors, or foreign entity's agents; and

(2) require a 3-party document signed by the exchange visitor, foreign entity, and sponsor that outlines a basic level fee structure and itemsizes mandatory and optional fees.

SEC. 3905. ANNUAL NOTIFICATION.

(a) ANNUAL EXCHANGE VISITOR PROGRAM SPONSOR NOTIFICATION.—

(1) In general.—Subject to paragraph (2), prior to engaging in any exchange visitor program activity, any person who seeks to be an exchange visitor program sponsor shall be designated by the Secretary of State pursuant to regulations that the Secretary of State has prescribed or shall prescribe after the date of the enactment of this Act.

(2) Notification.—The Secretary of State may notify an exchange visitor program sponsor that the Secretary of State has prescribed or shall prescribe after the date of the enactment of this Act.

(3) PERSONAL JURISDICTION OVER FOREIGN ENTITIES.—As a condition of initial and continued registration, each program sponsor shall obtain a written and signed agreement from any foreign entity. In that agreement, the foreign entity shall stipulate and agree, on a voluntary basis, to be liable for any fees payment or compensation for performing any work or service for the program sponsor, that the laws of the United States shall govern any dispute among the parties or the United States, including any enforcement actions, and that any dispute or enforcement action shall be brought in the United States District Court for the District of Columbia. The agreement shall be in such form and contain such other information as the Secretary of State shall prescribe.

(4) NOTIFICATION.—An exchange visitor program sponsor shall notify the Secretary of State upon gaining knowledge of noncompliance with this subtitle by an exchange visitor program sponsor. An exchange visitor program sponsor shall inform the Secretary of State about such noncompliance with this subtitle by a host entity or foreign entity.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall amend its regulations at part 62 of title 22, Code of Federal Regulations, to include the following bases for refusing to issue or renew, or for revoking a sponsor designation for a period of not greater than 5 years:

(1) The applicant for, or holder of, the designation has knowingly made a material misrepresentation in the application for such designation.

(2) The applicant for, or holder of, the designation has been charged with or committed a felony under State or Federal law.

(3) A visa issued to the person making a claim of violation of this chapter, or otherwise, has been issued for the purpose of engaging in violating this chapter, in violation of this chapter, or otherwise, has been issued for the purpose of engaging in trafficking in persons, murder, rape, drug trafficking in persons, murder, rape, drug

SEC. 3909. RESPONSIBILITIES OF SECRETARY OF STATE.

(a) IN GENERAL.—The Secretary of State shall ensure that all United States diplomatic missions have a person who is responsible for receiving information from any exchange visitor who has been subject to violations of this subtitle.

(b) PERSONAL JURISDICTION.—The responsible person referred to in subsection (a) shall ensure that the information received is provided to the Department of State, the Department of Homeland Security, the Department of Justice, and any other relevant Federal agency.

SEC. 3908. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

Section 214 (8 U.S.C. 1375b), as amended by title IV, is further amended by adding at the end the following:

“(bb) A visa shall not be issued under section 101(a)(15) until the consular officer—

“(1) has confirmed that the applicant has received, read, and understood the information and resources pamphlet required by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1578b); and

“(2) has reviewed and made a part of the visa file the exchange visitor program sponsor disclosure required by section 2052 of the Homeland Security, Economic Opportunity, and Immigration Modernization Act, including whether the exchange visitor program sponsor is designated pursuant to that section.”.
SEC. 3910. ENFORCEMENT PROVISIONS.
(a) INVESTIGATIONS.—The Secretary of State shall undertake compliance actions and sanctions against exchange visitor programs in accordance with part 22 of title 22, Code of Federal Regulations.
(b) REPRESENTATION.—Except as provided in section 28, unless the District Attorney or the Board of Commissioners of Bankruptcy of the United States, as provided in the Federal Bankruptcy Code, the Attorney General may appear for and represent the Secretary in any civil litigation brought under this paragraph. All such actions or proceedings shall be subject to the direction and control of the Attorney General.

Exchange visitor sponsors shall be allowed a reasonable period of inquiry and response before such action is commenced.
(c) ENFORCEMENT.—The Secretary of State or an exchange agent who is subject to any violation of this subtitle may bring a civil action against a program sponsor, foreign entity, or host entity in a court of competent jurisdiction and recover appropriate relief, including injunctive relief, damages, reasonable attorneys’ fees and costs, and any other remedy that would effectuate the purposes of this subtitle. Any action must be filed within 3 years after the date on which the defendant became aware of the violation, but under no circumstances more than 5 years after the date on which the violation occurred.

(d) REQUIREMENT OF CERTIFICATION OR DECLARATION OF COMPLIANCE.—A program sponsor, foreign entity, or host entity shall be required to provide information to the Secretary of State or an exchange agent who is subject to any violation of this subtitle.

(e) WAIVER.—Program sponsors, foreign entities, or host entities that have a valid designation by the Secretary of State or an exchange agent who is subject to any violation of this subtitle may be excused from the requirements set forth in part 22 of title 22, Code of Federal Regulations. The report shall be submitted at the expense of the sponsor and no more frequently than on a biannual basis.

(f) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the exchange visitor program, which shall detail for each specific program category—
(1) the number of exchange visitors and countries participating in that category;
(2) the public diplomacy outcomes; and
(3) the recent sanctions imposed by the Department of State.

TITLE IV—REFORMS TO NONIMMIGRANT VISA PROGRAMS

Subtitle A—Employment-based Nonimmigrant Visas

SEC. 4101. MARKET-BASED H-1B VISA LIMITS.
(a) IN GENERAL.—Section 214(h) (8 U.S.C. 1184a(g)) is amended—
(1) in paragraph (1)—
(A) in the matter preceding subparagraph (A), by striking ‘‘beginning with fiscal year 1999’’; and
(B) by amending subparagraph (A) to read as follows:
‘‘(A) the basic allocation calculated under paragraph (9)(A); and
‘‘(B) the allocation adjustment calculated under paragraph (9)(B).’’

SEC. 4102. H-1B VISA LIMITS.
(a) IN GENERAL.—Section 214(h) (8 U.S.C. 1184a(g)) is amended—
(1) in paragraph (1)—
(A) in the matter preceding subparagraph (A), by striking ‘‘beginning with fiscal year 1999’’; and
(B) by amending subparagraph (A) to read as follows:
‘‘(A) the basic allocation calculated under paragraph (9)(A); and
‘‘(B) the allocation adjustment calculated under paragraph (9)(B).’’

SEC. 4103. MAXIMUM NUMBER OF H-1B VISA VISITORS.

SEC. 4104. H-1B VISA LIMITS.

SEC. 4105. H-1B VISA LIMITS.

SEC. 4106. H-1B VISA LIMITS.

SEC. 4107. H-1B VISA LIMITS.

SEC. 4108. H-1B VISA LIMITS.

SEC. 4109. H-1B VISA LIMITS.

SEC. 4110. H-1B VISA LIMITS.

SEC. 4111. H-1B VISA LIMITS.

SEC. 4112. H-1B VISA LIMITS.

SEC. 4113. H-1B VISA LIMITS.

SEC. 4114. H-1B VISA LIMITS.

SEC. 4115. H-1B VISA LIMITS.

SEC. 4116. H-1B VISA LIMITS.

SEC. 4117. H-1B VISA LIMITS.

SEC. 4118. H-1B VISA LIMITS.

SEC. 4119. H-1B VISA LIMITS.

SEC. 4120. H-1B VISA LIMITS.

SEC. 4121. H-1B VISA LIMITS.

SEC. 4122. H-1B VISA LIMITS.

SEC. 4123. H-1B VISA LIMITS.

SEC. 4124. H-1B VISA LIMITS.

SEC. 4125. H-1B VISA LIMITS.

SEC. 4126. H-1B VISA LIMITS.

SEC. 4127. H-1B VISA LIMITS.

SEC. 4128. H-1B VISA LIMITS.

SEC. 4129. H-1B VISA LIMITS.

SEC. 4130. H-1B VISA LIMITS.

SEC. 4131. H-1B VISA LIMITS.

SEC. 4132. H-1B VISA LIMITS.

SEC. 4133. H-1B VISA LIMITS.

SEC. 4134. H-1B VISA LIMITS.

SEC. 4135. H-1B VISA LIMITS.

SEC. 4136. H-1B VISA LIMITS.

SEC. 4137. H-1B VISA LIMITS.

SEC. 4138. H-1B VISA LIMITS.

SEC. 4139. H-1B VISA LIMITS.

SEC. 4140. H-1B VISA LIMITS.

SEC. 4141. H-1B VISA LIMITS.

SEC. 4142. H-1B VISA LIMITS.

SEC. 4143. H-1B VISA LIMITS.

SEC. 4144. H-1B VISA LIMITS.

SEC. 4145. H-1B VISA LIMITS.

SEC. 4146. H-1B VISA LIMITS.

SEC. 4147. H-1B VISA LIMITS.

SEC. 4148. H-1B VISA LIMITS.

SEC. 4149. H-1B VISA LIMITS.

SEC. 4150. H-1B VISA LIMITS.

SEC. 4151. H-1B VISA LIMITS.

SEC. 4152. H-1B VISA LIMITS.

SEC. 4153. H-1B VISA LIMITS.

SEC. 4154. H-1B VISA LIMITS.

SEC. 4155. H-1B VISA LIMITS.

SEC. 4156. H-1B VISA LIMITS.

SEC. 4157. H-1B VISA LIMITS.

SEC. 4158. H-1B VISA LIMITS.
SEC. 4102. EMPLOYMENT AUTHORIZATION FOR DEPENDENTS OF EMPLOYMENT-BASED NONIMMIGRANTS.

Section 214(c) (8 U.S.C. 1184(c)) is amended—

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

(b) in paragraph (2), by amending subparagraph (E) to remove the references to “Attorney General” and “Secretary of Homeland Security” in that subparagraph; and

(c) by inserting “lawful status” each place such term appears and inserting “status”.

SEC. 4103. ETHICAL IMPEDIMENTS TO WORKER MOBILITY.

(a) DEFERENCE TO PRIOR APPROVALS.—Section 214(c) (8 U.S.C. 1184(c)), as amended by section 4102 of this Act, is amended by inserting the following:

“(ii) may not increase the numerical limitation contained in paragraph (1) to perform employment similar to the employment authorized by the alien on whose behalf the petition is filed;”.

(b) INCREASE IN ALLOCATION FOR STEM NONIMMIGRANTS.—Section 214(b)(5)(C) (8 U.S.C. 1184(b)(5)(C)) is amended to read as follows:

“(C) new material information has been

(c) PUBLICATION.—

(1) DATA SUMMARY PATTERNS.—The Secretary may make available to the public website data that summarizes the adjudication of nonimmigrant petitions under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)(5)(H)(i)(b)) during each fiscal year. (2) ANNUAL NUMERICAL LIMITATION.—As soon as practicable and no later than March 2 of each fiscal year, the Secretary shall publish in the Federal Register the numerical limitation determined under section 214(g)(4) for the following fiscal year.

(d) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year beginning on the date of the enactment of this Act and apply to applications for nonimmigrant visas under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)(5)(H)(i)(b)) for such fiscal year.

SEC. 4104. STEM EDUCATION AND TRAINING.

(a) FEE.—Section 212(a)(5)(A) (8 U.S.C. 1160(a)(5)(A)) is amended by inserting at the end of the section the following:

“(O), (P), (R), or (W) of section 101(a)(15) if the alien has remained eligible for such status and qualifies for a waiver of interview as provided for in subsection (h)(1)(D);”.

(b) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in subparagraph (B)(iv), by striking “at the end;” and

(2) in subparagraph (C)(ii), by striking “and” at the end and inserting “or”; and

(c) VISA REVALIDATION.—Section 222(c) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(d) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(e) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(f) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(g) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(h) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(i) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(j) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(k) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.

(l) INTERVIEW WAIVERS FOR LOW RISK VISA APPLICANTS.—Section 222(b)(1) (8 U.S.C. 1202(b)(1)) is amended—

(1) in paragraph (1), by striking “‘Every alien’;” and

(2) in subparagraph (C)(ii), by striking “the” and inserting “the alien’s”.
of study leading to a degree in science, technology, engineering, or mathematics.

"(B) STEM EDUCATION FOR UNDERREPRESENTED.—The Director shall work in consultation with scholarship funds through national nonprofit organizations that primarily focus on science, technology, engineering, or mathematics education for underrepresented groups such as women and minorities.

"(C) LOAN FORGIVENESS.—The Director may expend funds from the Account for purposes of forgiving or repaying all or a portion of student loans which led to a low-income student obtaining a degree in science, technology, engineering, mathematics, or other high demand fields.

"(D) NATIONAL SCIENCE FOUNDATION GRANT PROGRAM FOR K-12 SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.—

"(A) IN GENERAL.—Ten percent of the amounts deposited into the H-1B Non-immigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support improvement in K-12 education, including through private-public partnerships. Grants awarded pursuant to this paragraph shall include formula based grants that target lower income populations with a focus on reaching underserved minority populations.

"(B) TYPES OF PROGRAMS COVERED.—The Director shall award grants to programs that—

(i) support the development and implementation of standards-based instructional materials models and related student assessments that enable K-12 students to acquire an understanding of science, technology, engineering, and mathematics, and to develop critical thinking skills;

(ii) provide systemic improvement in training K-12 teachers and education for students in science, technology, engineering, and mathematics, including by supporting efforts to promote gender-equality among students receiving such instruction;

(iii) support the professional development of K-12 science, technology, engineering, and mathematics teachers in the use of technology in the classroom;

(iv) stimulate systems-wide K-12 reform of science, technology, engineering, and math education to economically disadvantaged regions of the United States;

(v) provide externships and other opportunities for students to increase their appreciation and understanding of science, technology, engineering, and mathematics (including summer institutes sponsored by an institution of higher education for students in grades 7 through 12 that provide instruction in such fields);

(vi) involve partnerships of industry, educational institutions, and national or regional organizations based on organizations with demonstrated experience addressing the educational needs of disadvantaged communities;

(vii) provide college preparatory support to expose and prepare students for careers in science, technology, engineering, and mathematics; or

(viii) provide for carrying out systemic reform activities under section 3(a)(1) of the National Science Foundation Act of 1990 (42 U.S.C. 1862(a)(1))."

(c) UNIVERSITY OF CHICAGO.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

"(A) STEM EDUCATION AND TRAINING ACCOUNT.—

"(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, to be known as the 'STEM Education and Training Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Account all of the fees collected under section 212(a)(5)(A)(v).

"(2) PURPOSES.—

(A) IN GENERAL.—The purposes of the STEM Education and Training Account are to enhance the economic competitiveness of the United States by—

(i) strengthening STEM education, including in computer science, at all levels;

(ii) ensuring that schools have access to well-trained and effective STEM teachers;

(iii) facilitating the transition of elementary and secondary curriculum, including efforts to make courses in computer science more available; and

(iv) helping colleges and universities produce more graduates in fields needed by American employers.

(B) DETERMINATION.—In this paragraph, the term 'STEM education' means instruction in a field of science, technology, engineering, or mathematics included in the Department of Education's Classification of Instructional Programs taxonomy within the summary groups of computer and information sciences and support services, engineering, mathematics and statistics, physical sciences, and biological sciences.

"(3) ALLOCATIONS TO STATES AND TERRITORIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Education shall proportionately allocate 70 percent of the amounts deposited into the STEM Education and Training Account to State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Northern Mariana Islands in an amount that bears the same relationship as the proportion the State, district, or territory receives from the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the preceding fiscal year bears to the amount all States and territories received under that subpart for the preceding fiscal year.

(B) MINIMUM ALLOCATIONS.—No State or territory shall receive less than an amount equal to 0.5 percent of the total amount made available to all States from the STEM Education and Training Account. If a State or territory does not request an allocation from the Account pursuant to this paragraph, the Secretary shall reallocate the State's allocation to the remaining States and territories in accordance with subsection (C).

"(4) USE OF FUNDS.—Amounts allocated pursuant to this paragraph may be used for the activities described in section 4104(c) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

"(5) STEM CAPACITY BUILDING AT MINORITY-SERVING INSTITUTIONS.—

(A) IN GENERAL.—The Secretary of Education shall allocate 20 percent of the amounts deposited into the STEM Education and Training Account to establish or expand programs to assist minority-serving institutions described in subparagraph (C)—

(i) to enhance the quality of undergraduate science, technology, engineering, and mathematics education at such institutions; and

(ii) to increase the retention and graduation rates of students pursuing degrees in such fields at such institutions.

(B) TYPES OF PROGRAMS COVERED.—Grants awarded under this paragraph shall be awarded to—

(i) minority-serving institutions of higher education for—

"(1) activities to improve courses and curriculum in science, technology, engineering, and mathematics education; and

"(2) efforts to promote gender equality among students enrolled in such courses; and

"(ii) faculty and student development and exchange;

(ii) research infrastructure development;

(iii) joint research projects; and

(iv) identification and development of minority and low-income candidates for graduate studies in science, technology, engineering, and mathematics degree programs.

(C) INSTITUTIONS INCLUDED.—In this paragraph the term 'institutions' shall include—

(i) colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-325a and 328), including Tuskegee University;

(ii) 1994 Institutions, as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);

(iii) part B institutions (as defined in section 326 of the Higher Education Act of 1965 (20 U.S.C. 1011)); and

(iv) Hispanic-serving institutions, as defined in section 508(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1001).

(D) GRANTING OF BONDS.—A recipient of a grant awarded under this paragraph is authorized to utilize such funds for the issuance of bonds for research infrastructure development.

(E) LOAN FORGIVENESS.—The Director may expend funds from the allocation under this paragraph for purposes of loan forgiveness or repayment of student loans which led to a low-income student obtaining a degree in science, technology, engineering, or mathematics, or other high demand fields.

(F) WORKFORCE INVESTMENT.—The Secretary of Education shall allocate 5 percent of the amounts deposited into the STEM Education and Training Account to the Secretary of Labor until expended for statewide workforce investment activities that may also benefit veterans and their spouses, including youth activities and statewide employment and training and activities for adults and dislocated workers described in section 4106(a)(3) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

(G) AMERICAN DREAM ACCOUNTS.—The Secretary of Education shall allocate 3 percent of the amounts deposited into the STEM Education and Training Account to award grants, on a competitive basis, to eligible entities to enable such eligible entities to establish and administer American Dream Accounts under section 4105(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(H) ADMINISTRATION EXPENSES.—The Secretary of Education may expend up to 2 percent of the amounts deposited into the STEM Education and Training Account for administrative expenses, including conducting an annual evaluation of the implementation and impact of the activities funded by the STEM Education and Training Account as required under section 4105(c)(3) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

(I) STEM EDUCATION GRANTS.—

(A) IN GENERAL.—The Secretary of Education may make competitive grants to Governors and Chief State School Officer desiring an allocation from the STEM Education and Training Account under section 286(e)(3) of the Immigration Act of 1990, as added by subsection (b), jointly submit a plan, including a proposed budget, signed by the
Governor and Chief State School Officer, to the Secretary of Education at such time, in such form, and including such information as the Secretary of Education may prescribe pursuant to paragraph (b). The plan shall describe how the State plans to improve STEM education to meet the needs of students and employers in the State.

(2) Awardee.—The Secretary of Education shall issue a rule, through a rule-making procedure that complies with section 553 of title 5, United States Code, prescribing the information that should be included in the State plans submitted under subparagraph (A).

(3) EVALUATION.—(A) Awardees shall, for each fiscal year during the period of the award, submit an evaluation, including the results of evaluation activities described in subparagraph (A). The plan shall include a description of what experience the awardee will use to carry out the evaluation and how the results of the evaluation will be disseminated.

(B) The Committee on Appropriations of the Senate or the House of Representatives may request an evaluation report. The report shall include—

(i) a description of the characteristics of a group of not less than 30 low-income public school students who—

(1) are, at the time of the application, attending a school not higher than grade 9; and

(2) will, under the grant, receive an American Dream Account;

(ii) a description of how the eligible entity will engage, and provide support (as such term is defined in section 1117(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II))); and

(C) DURATION.—A grant awarded under this subsection shall be for a period of not more than 3 years. The Secretary of Education may extend such grant for an additional 2-year period if the Secretary of Education determines that the eligible entity has demonstrated significant progress, based on the findings described in paragraph (3)(B)(vi).

(4) AFFORDABILITY.—(A) In general.—Each eligible entity desiring a grant under this subsection shall submit an application to the Secretary of Education at such time, in such form, and, containing such information as the Secretary of Education may require.

(B) CONTENTS.—The application described in paragraph (A) shall include—

(i) a description of the characteristics of a group of not less than 30 low-income public school students who—

(1) are, at the time of the application, attending a school not higher than grade 9; and

(2) will, under the grant, receive an American Dream Account;

(ii) a description of how the eligible entity will engage, and provide support (as such term is defined in section 1117(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II))); and

(C) DURATION.—A grant awarded under this subsection shall be for a period of not more than 3 years. The Secretary of Education may extend such grant for an additional 2-year period if the Secretary of Education determines that the eligible entity has demonstrated significant progress, based on the findings described in paragraph (3)(B)(vi).
(V) rates of student completion of the Free Application for Federal Student Aid described in section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090);
(VI) an institution in an institution of higher education; and
(VII) rates of completion at an institution of higher education;
(xii) a description of what will happen to the funds in the college savings account portion of the American Dream Accounts that are dedicated to participating students described in (i) but have not matriculated at an institution of higher education at the time of the conclusion of the period of American Dream Account management described in clause (viii);
(xiii) a description of how the eligible entity will ensure that funds in the college savings account portion of the American Dream Accounts will not make families ineligible for public assistance; and
(xiv) a description of how the eligible entity will ensure that participating students described in clause (i) will have access to the Internet.
(C) Priority.—In awarding grants under this subsection, the Secretary of Education shall give priority to applications from eligible entities that—
(i) are described in paragraph (1)(E)(vii);
(ii) are described in paragraph (1)(E)(i); and
(iii) have the highest number of low-income students;
(D) Contents.—The report described in clause (i) shall—
(i) list the grants that have been awarded under this subsection; and
(ii) describe the grant program, including—
(A) I N GENERAL.—(i) an eligible entity that receives a grant under this subsection shall prepare and submit a report to the Secretary of Education after the Secretary of Education has disbursed the grant and applies for Federal student aid under the Higher Education Act of 1965 (20 U.S.C. 1001), and shall be considered in determining the amount of any such Federal student aid.
(B) Access to American Dream Account.—An eligible entity that receives a grant under this subsection shall not be required to provide access to the college savings account portion of a student’s American Dream Account without the student’s consent, in accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). (C) Prohibition on use of student information.—An eligible entity that receives a grant under this subsection shall—
(i) provide student information to the Secretary of Education, including by—
(A) assisting such students in identifying and applying for financial aid; (B) assisting such students in obtaining employment; and (C) assisting such students in finding educational opportunities; (D) determining the appropriate courses to prepare for postsecondary education; (E) determining the institution of higher education; (F) obtaining an American Dream Account; (G) choosing a major for the student’s postsecondary program of education or a career path; (H) ensuring that the student’s American Dream Account is not used for non-educational purposes; (I) providing instruction to the student; and (J) adapting to life at an institution of higher education; and
(v) identify all students who have an American Dream Account established through a grant under this subsection; (vi) provide feedback to participating students and the parents of such students about the grant program, including—
(I) the amount of any such Federal student aid; (J) aspects of the program that are successful; (K) aspects of the program that are not successful; and (L) any other data required by the Secretary of Education; and
(vi) provide recommendations for expanding the American Dream Account program.
(6) ELIGIBILITY TO RECEIVE FEDERAL STUDENT FINANCIAL AID.—Notwithstanding any other provision of law, any funds that are in the college savings account portion of a student’s American Dream Account shall not affect such student’s eligibility to receive Federal student financial aid, including any Federal student financial aid under the Higher Education Act of 1965 (20 U.S.C. 1001), and shall not be considered in determining the amount of any such Federal student aid.
(7) CONFORMING AMENDMENTS.—Section 4806 of the Higher Education Act of 1965 (20 U.S.C. 1087(v)(ii)) is amended by adding at the end the following:
“(5) Notwithstanding paragraph (1), amounts made available under the college savings account portion of an American Dream Account under section 4105(e)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 shall not be treated as estimated financial assistance for purposes of section 471(3).”.
SEC. 4105. H-1B AND L VISA FEES.
Section 281 (8 U.S.C. 1351) is amended—
(1) by striking “The fees” and inserting the following:
“(a) In general.—(A) the fees; (B) by striking ‘‘Provided, That non-immigrant visas’’ and inserting the following: ‘‘(b) United nations visitors.—Non-immigrant visas’’; (C) by striking “Subject to” and inserting the following:
“(c) Fee waivers or reductions.—Subject to: (1) by adding at the end the following:
“(D) H-1B and L visa fees.—In addition to the fees authorized under subsection (a), the Secretary of Homeland Security shall collect, from each employer (except for nonprofit research institutions and nonprofit educational institutions) filing a petition to hire nonimmigrants described in subparagraph (H)(1)(B) or (L) of section 101(a)(15), a fee in an amount equal to—
(i) $2,500 for each petition filed by any employer with not more than 25 full-time equivalent employees in the United States; and
(ii) $5,000 for each such petition filed by any employer with more than 25 such employees.”;
SEC. 421. MODIFICATION OF APPLICATION REQUIREMENTS.

(a) GENERAL APPLICATION REQUIREMENTS.—

(1) WAGE RATES.—Section 212(n)(1)(A) (8 U.S.C. 1182(n)(1)(A)) is amended—

(i) in the matter preceding subclause (I), by inserting “if the employer is not an H–1B-dependent employer, before “is offering’’;

(ii) in subclause (I), by striking “question, or” and inserting “question, or’’;

(iii) in subclause (II), by striking “employ-ment,’ and inserting ‘employment and’;

(iv) by inserting material following subclause (II), by striking “application, and” and inserting “application;”;

and

(b) by striking clause (i) and inserting the following:

“(i) if the employer is an H–1B-dependent employer, is offering and will offer to H–1B nonimmigrants, during the period of authorized employment for each H–1B nonimmigrant, wages that are not less than the level 2 wages set out in subsection (p); and

“(ii) will provide working conditions for H–1B nonimmigrants that will not adversely affect the working conditions of other workers similarly employed.”.

(2) STRENGTHENING THE PREVAILING WAGE SYSTEM.—Section 212(p) (8 U.S.C. 1182(p)) is amended to read as follows:

“(p) COMPUTATION OF PREVAILING WAGE LEVEL.—

“(1) IN GENERAL.—

“(A) SURVEYS.—For employers of nonimmigrants admitted pursuant to section 101(a)(15)(H)(i)(b), the Secretary of Labor shall make available to employers a government survey to determine the prevailing wage for each occupational classification by metropolitan statistical area in the United States. Such survey, or other survey approved by the Secretary of Labor, shall provide 3 levels of wages commensurate with experience, education, and level of supervision. Such wage levels shall be determined as follows:

“(i) The first level shall be the mean of the lowest two-thirds of wages surveyed.

“(ii) The second level shall be the mean of wages surveyed by the employer.

“(iii) The third level shall be the mean of the highest two-thirds of wages surveyed.

“(B) EDUCATIONAL, NONPROFIT, RESEARCH, AND GOVERNMENTAL ENTITIES.—In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 233(b)(1)(D) and subsection (a)(5)(A), (n)(1)(A)(i)(II), and (3)(1)(A)(i)(II) of this section in the case of an employee of—

“(i) an institution of higher education, or a related or affiliated nonprofit entity; or

“(ii) a nonprofit research organization or a governmental research organization; the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

“(2) PAYMENT OF PREVAILING WAGE.—The prevailing wage required to be paid pursuant to section 233(b)(1)(D) and subsections (a)(5)(A), (n)(1)(A)(i)(II), and (3)(1)(A)(i)(II) of this section shall be 100 percent of the wage level set forth pursuant to those sections.

“(3) PROFESSIONAL ATHLETE.—With respect to a professional athlete (as defined in subsection (a)(5)(A)(iii)(II) when the job opportunity involves a professional league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and shall be considered the prevailing wage.

“(4) WAGES FOR H–2B EMPLOYEES.—

“(A) IN GENERAL.—The wages paid to H–2B nonimmigrants employed by the employer will be the greater of—

“(i) the prevailing wage level paid by the employer to other employees with similar experience and qualifications for such position; or

“(ii) the prevailing wage level for the occupational classification of the position in the geographic area of the employment, based on the best information available as of the time of filing the application.

“(B) BEST INFORMATION AVAILABLE.—In subsection (A), the term ‘best information available’, when used to determine the prevailing wage for a position, means—

“(i) a controlling collective bargaining agreement or Federal contract wage, if applicable;

“(ii) if there is no applicable wage under clause (i), the wage level commensurate with the experience, training, and supervision required for such position based on Bureau of Labor Statistics data; or

“(iii) if the data referred to in clause (i) is not available, a legitimate and recent private survey of the wages paid for such positions in the metropolitan statistical area.

“(3) WAGES FOR EDUCATIONAL, NONPROFIT, RESEARCH, AND GOVERNMENTAL ENTITIES.—Section 212(n)(1)(E) (8 U.S.C. 1182(n)(1)(E)) is amended to read as follows:

“(E) AN EMPLOYER, prior to filing the application—

“(1) NONDISPLACEMENT.—Section 212(n)(1)(E) (8 U.S.C. 1182(n)(1)(E)) is amended to read as follows:

“(E)(i) the term ‘job zone’ means a zone assigned to an occupation by—

“(I) the Occupational Information Network database (O*NET) on the date of the enactment of this Act; or

“(II) such database or a similar successor database, as designated by the Secretary of Labor, after the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998, under paragraph (2)(C) or (5) to have committed a strike or other labor dispute during the 5-year period preceding the filing of the application.

“(ii) the term ‘job zone’ means a zone assigned to an occupation by—

“(1) the Occupational Information Network database (O*NET) on the date of the enactment of this Act; or

“(2) such database or a similar successor database, as designated by the Secretary of Labor, after the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998, under paragraph (2)(C) or (5) to have committed a strike or other labor dispute during the 5-year period preceding the filing of the application.

“(1) the Occupational Information Network database (O*NET) on the date of the enactment of this Act; or

“(2) such database or a similar successor database, as designated by the Secretary of Labor, after the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998, under paragraph (2)(C) or (5) to have committed a strike or other labor dispute during the 5-year period preceding the filing of the application.

“(G) An employer, prior to filing the application—
“(i) has taken good faith steps to recruit United States workers for the occupational classification for which the nonimmigrant or nonimmigrants is or are sought, using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H–1B nonimmigrants under subparagraph (A); (ii) is not a worker or agent of an Indian tribe that is seeking to employ up to 5 full-time equivalent employees under paragraph (D); and (iii) is an employer that employs H–1B nonimmigrants in the United States in a number that is in total equal to at least 15 percent of the number of its full-time equivalent employees in the United States employed in occupations contained within Occupational Information Network Database (O*NET) Job Zone 4 and Job Zone 5.

“(ii) An H–1B nonimmigrant who is an intending immigrant shall be counted as a nonimmigrant under section 101(a)(15)(H)(i)(c) if—

(B) In determining the number of employees who are H–1B nonimmigrants under subparagraph (A), an intending immigrant is counted toward such number if—

(1) the employer is an H–1B dependent employer, and

(2) the employer has not advertised for new employment during the 60-day period beginning on the date of such termination, lay off, or cessation; and

(C) in the case of an employer that has at least 26 but not more than 50 full-time equivalent employees who are employed in the United States, employs more than 12 H–1B nonimmigrants; or

(ii) on whose behalf an employer has filed a nonfrivolous petition for new employment during the 60-day period beginning on the date of such termination, lay off, or cessation; and

(iii) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.

(D) APPLICABILITY.—

(1) IN GENERAL.—Beginning on the commencement date described in paragraph (2), the amendments made by section 2 of the Nursing Relief for Disadvantaged Areas Act of 1999 (Public Law 106–95; 113 Stat. 1313), and the amendments made by this section, shall apply to classification petitions filed for nonimmigrant status. This period shall be in addition to the period described in section 2(e) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note).

(2) COMMENCEMENT DATE.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall determine whether regulations are necessary to implement the amendments made by this section. If the Secretary determines that no such regulations are necessary, the commencement date described in this paragraph shall be the date of such determination. If the Secretary determines that regulations are necessary to implement the amendments made by this section, the commencement date described in this paragraph shall be the date on which such regulations (in final form) take effect.

SEC. 4213. NEW APPLICATION REQUIREMENTS.

Section 212(m)(1) (8 U.S.C. 1182(m)(1)) is amended by inserting after clause (iii) of subparagraph (D), the following:

“(ii) on whose behalf an employer has filed a nonfrivolous petition for new employment during the 60-day period beginning on the date of such termination, lay off, or cessation; and

(iii) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.

(D) APPLICABILITY.—

(1) IN GENERAL.—Beginning on the commencement date described in paragraph (2), the amendments made by section 2 of the Nursing Relief for Disadvantaged Areas Act of 1999 (Public Law 106–95; 113 Stat. 1313), and the amendments made by this section, shall apply to classification petitions filed for nonimmigrant status. This period shall be in addition to the period described in section 2(e) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note).

(2) COMMENCEMENT DATE.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall determine whether regulations are necessary to implement the amendments made by this section. If the Secretary determines that no such regulations are necessary, the commencement date described in this paragraph shall be the date of such determination. If the Secretary determines that regulations are necessary to implement the amendments made by this section, the commencement date described in this paragraph shall be the date on which such regulations (in final form) take effect.

SEC. 4213. NEW APPLICATION REQUIREMENTS.

Section 212(m)(1) (8 U.S.C. 1182(m)(1)) is amended by inserting after clause (iii) of subparagraph (D), the following:

“(ii) on whose behalf an employer has filed a nonfrivolous petition for new employment during the 60-day period beginning on the date of such termination, lay off, or cessation; and

(iii) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.

(D) APPLICABILITY.—

(1) IN GENERAL.—Beginning on the commencement date described in paragraph (2), the amendments made by section 2 of the Nursing Relief for Disadvantaged Areas Act of 1999 (Public Law 106–95; 113 Stat. 1313), and the amendments made by this section, shall apply to classification petitions filed for nonimmigrant status. This period shall be in addition to the period described in section 2(e) of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note).

(2) COMMENCEMENT DATE.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall determine whether regulations are necessary to implement the amendments made by this section. If the Secretary determines that no such regulations are necessary, the commencement date described in this paragraph shall be the date of such determination. If the Secretary determines that regulations are necessary to implement the amendments made by this section, the commencement date described in this paragraph shall be the date on which such regulations (in final form) take effect.
‘(ii) In this subparagraph:

‘(A) The term ‘educational or research employer’ means an employer that is a non-profit institution of higher education or a nonprofit organization described in section 501(a)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.


‘(C) The term ‘L nonimmigrant’ means an alien admitted as an alien nonimmigrant pursuant to section 101(a)(15)(L) to provide services to his or her employer involving specialized knowledge.

‘(D) In determining the percentage of employees of an employer that are H–1B nonimmigrants or L nonimmigrants under clause (i), an intending immigrant employee shall not count toward such percentage.

‘(J) The employer shall submit to the Secretary of Homeland Security an annual report that includes the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer for each H–1B nonimmigrant employed by the employer during the previous year.

SEC. 4214. APPLICATION REVIEW REQUIREMENTS.

(a) TECHNICAL AMENDMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by section section 4213, is further amended in the undesignated paragraph at the end, by striking “The employer” and inserting the following:

“(K) The employer shall:

(1) by inserting “and through the Department of Labor’s website, without charge, after “D.”;

(2) by striking “only for completeness” and inserting “for completeness and evidence of fraud or misrepresentation of material fact;”;

(3) by striking “or obviously inaccurate” and inserting “or obviously inaccurate”;

(4) by striking “between 7 days of the” and inserting “not later than 14 days after”;

and

(5) by adding at the end the following:

“(L) An I–129 Petition for Nonimmigrant Worker or (similar successor form)—

(i) may be filed by an employer with the Secretary of Homeland Security prior to the date the employer receives an approved certification described in section 101(a)(15)(H)(i)(b) from the Secretary of Labor;

and

(ii) may not be approved by the Secretary of Homeland Security until the date such certification is approved.”.

CHAPTER 2—INVESTIGATION AND DISPOSITION OF COMPLAINTS AGAINST H–1B EMPLOYERS

SEC. 4221. GENERAL MODIFICATION OF PROCEDURES FOR INVESTIGATION AND DISPOSITION

Section 212(n) (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (2)(A)—

(A) by striking “(A) Subject” and inserting “(A) An employer who employs H–1B nonimmigrants”;

(B) by inserting after the first sentence the following: “Such process shall include publicizing a dedicated toll-free number and publicly available Internet website for the submission of such complaints.”;

(C) by striking “12 months” and inserting “24 months”;

(D) by striking the last sentence and inserting the following: “The Secretary shall issue regulations requiring that employers that employ H–1B nonimmigrants, other than nonprofit institutions of higher education and nonprofit research organizations, through posting of notices or other appropriate means, inform their employees of such toll-free number and Internet website and of their right to file complaints pursuant to this paragraph.”;

(E) by adding at the end the following:

“(i) Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.

“(ii) The Secretary may conduct voluntary surveys of the degree to which employers comply with the requirements of this subsection.

“(III) The Secretary shall—

“(aa) conduct annual compliance audits of at least one in every 100 employers with more than 100 employees who work in the United States if more than 15 percent of such employees are H–1B nonimmigrants; and

“(bb) make available to the public an executive summary or report describing the general findings of the audits carried out pursuant to this subclause; and

(2) by adding at the end the following new paragraph:

“(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, and every 5 years thereafter, the Inspector General of the Department of Homeland Security shall submit a report regarding the Secretary’s enforcement of the requirements of this section to the Committee on the Judiciary and the Committee on Homeland Security, the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on the Judiciary and the Committee on Education and the Workforce of the House of Representatives.

SEC. 4222. INVESTIGATION, WORKING CONDITIONS, AND PENALTIES

Subparagraph (C) of section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I)—

(i) by striking paragraph (1)(B), (1)(E), or (1)(F)” and inserting “a condition described in paragraph (1) and, in the case of such a condition, the Secretary may conduct an investigation and hearing in accordance with paragraph (2).”;

(B) in clause (I), by striking “the employer” and inserting “the Secretary”;

(C) in subclause (I), by striking “a” and inserting “the”;

and

(2) by adding at the end the following:

“(II) an employer that violates subparagraph (A) shall be liable to any employee harmed by such violations for lost wages and benefits.”;

“(III) an employer that violates subparagraph (B) shall be liable to an employee harmed by such violations for lost wages and benefits.”;

“(bb) make available to the public an executive summary or report describing the general findings of the audits carried out pursuant to this subclause; and

(3) by adding at the end the following:

“(I) the opportunity to participate in health, life, disability, and other insurance plans;

“(AA) the opportunity to participate in retirement and savings plans; and

“(CC) cash bonuses and noncash compensation, such as stock options (whether or not tax-qualified), stock appreciation rights, retirement and savings plans; and

(C) in subclause (II), by striking “$1,000” and inserting “$2,000.”;

SEC. 4223. INITIATION OF INVESTIGATIONS

Subparagraph (G) of section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended—

(1) in clause (i), by striking “If the Secretary” and all that follows and inserting “with regard to the employer’s compliance with the requirements of this subsection.”;

(2) in clause (ii), by striking “and whose identity” and all that follows through “failure or failures.” and inserting “If the Secretary determines by a preponderance of the evidence that such an employer—

(a) to require an H–1B nonimmigrant to pay a penalty for ceasing employment with the employer prior to a date agreed to by the employer and the Secretary (the Secretary shall determine whether a required payment is a penalty, and not liquidated damages, pursuant to relevant State law); and

(b) to fail to offer to an H–1B nonimmigrant, during the nonimmigrant’s period of authorized employment, on the same basis, and in accordance with the same criteria, the employer offers to similarly situated United States workers, benefits and eligibility for benefits, including—

“(AA) the opportunity to participate in health, life, disability, and other insurance plans;

“(BB) the opportunity to participate in retirement and savings plans; and

“(CC) cash bonuses and noncash compensation, such as stock options (whether or not tax-qualified), stock appreciation rights, retirement and savings plans; and

(D) in subclause (II), by striking “$1,000” and inserting “$2,000.”;

SEC. 4224. APPLICATION REVIEW REQUIREMENTS

(a) TECHNICAL AMENDMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by section section 4213, is further amended in the undesignated paragraph at the end, by striking “The employer” and inserting the following:

“(K) The employer shall:

(1) by inserting “and through the Department of Labor’s website, without charge, after “D.”;

(2) by striking “only for completeness” and inserting “for completeness and evidence of fraud or misrepresentation of material fact;”;

(3) by striking “or obviously inaccurate” and inserting “or obviously inaccurate”;

(4) by striking “between 7 days of the” and inserting “not later than 14 days after”;

and

(5) by adding at the end the following:

“(L) An I–129 Petition for Nonimmigrant Worker (or similar successor form)—

“(i) may be filed by an employer with the Secretary of Homeland Security prior to the date the employer receives an approved certification described in section 101(a)(15)(H)(i)(b) from the Secretary of Labor;

and

(ii) may not be approved by the Secretary of Homeland Security until the date such certification is approved.”.
‘‘(V) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation related to H–1B nonimmigrants, including an explanation of the grounds for such investigation and an opportunity for the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. The Secretary under this clause shall not be subject to judicial review.’’;

(8) in clause (vi), as so redesignated, by striking ‘‘stricken’’ and all that follows through ‘‘the determination,’’ and inserting ‘‘If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of determination,’’ and

(9) by adding at the end the following:

‘‘(VII) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer violated the requirements under this subsection, the Secretary shall impose a penalty under subparagraph (C).’’

SEC. 4242. INFORMATION SHARING.

Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by sections 4222 and 4223, is further amended by adding at the end the following:

‘‘(J) The Secretary of Labor, with any information contained in labor condition certifications submitted by employers of H–1B nonimmigrants as part of the adjudication process that indicates that the employer is not complying with the visa program requirements for H–1B nonimmigrants. The Secretary of Labor may initiate and conduct an investigation related to H–1B nonimmigrants and a hearing under this paragraph after receiving information of noncompliance under this subparagraph. This subparagraph may not be construed to prevent the Secretary of Labor from taking action related to wage and hour and workplace safety laws.‘‘

‘‘(K) The Secretary of Labor shall facilitate the posting of the descriptions described in paragraph (1)(C)(i) on the Internet website of the State labor or workforce agency for the State in which the position will be primarily located during the same period as the posting under paragraph (1)(C)(i).’’

SEC. 4253. TRANSPARENCY OF HIGH-SKILLED IMMIGRATION PROGRAMS.

Section 416(c) of the America Competitiveness and Workforce Improvement Act of 1998 (8 U.S.C. 1151 note) is amended—

(1) in amending paragraph (2) to read as follows:

‘‘(2) ANNUAL H–1B NONIMMIGRANT CHARACTERISTICS REPORT.—The Bureau of Immigration and Labor Market Research shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

(A) information on the countries of origin of, occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(L) of the Immigration and Nationality Act; (8 U.S.C. 1101(a)(15)(L));

(B) a list of all employers who petition for H–1B visas, the number of such petitions filed and approved for each such employer, the occupational classifications for the approved positions, and the number of H–1B nonimmigrants for whom each such employer is required to make additional scrutiny, adjustment to permanent resident status;

(C) the number of immigrant status petitions filed during the prior year on behalf of H–1B nonimmigrants;

(D) a list of all employers who are H–1B-dependent employers;

(E) a list of all employers who are H–1B skilled workers employers;

(F) a list of all employers who have been approved to conduct outplacement of H–1B nonimmigrants;

(G) a list of all employers for whom more than 50 percent of their United States workforce is H–1B or L–1 nonimmigrants;

(H) a gender breakdown by occupation and by country of H–1B nonimmigrants;

(I) a list of all employers who have been approved to conduct outplacement of L–1 nonimmigrants; and

(J) the number of H–1B nonimmigrants categorized by their highest level of education and whether such education was obtained in the United States or in a foreign country.

(2) by redesignating paragraph (3) as paragraph (5);

(3) by inserting after paragraph (2) the following:

‘‘(3) ANNUAL L–1 NONIMMIGRANT CHARACTERISTICS REPORT.—The Bureau of Immigration and Labor Market Research shall submit an annual report to the Committee on the Judiciary of the House of Representatives that contains—

(A) information on the countries of origin of, occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(L) of the Immigration and Nationality Act; (8 U.S.C. 1101(a)(15)(L)) during the previous fiscal year;

(B) a list of all employers who petition for L-1 visas, the number of such petitions filed and approved for each such employer, the occupational classifications for the approved positions, and the number of L–1 nonimmigrants for whom each such employer files for adjustment to permanent resident status;

(C) the number of immigrant status petitions filed during the prior year on behalf of L–1 nonimmigrants;

(D) a list of all employers who are L–1 dependent employers;

(E) a gender breakdown by occupation and by country of L–1 nonimmigrants;

(F) a list of all employers who have been approved to conduct outplacement of L–1 nonimmigrants; and

(G) the number of L–1 nonimmigrants categorized by their highest level of education and whether such education was obtained in the United States or in a foreign country.

(4) ANNUAL EMPLOYER SURVEY.—The Bureau of Immigration and Labor Market Research shall—

(A) conduct an annual survey of employers hiring foreign nationals under the L–1 visas provided for under this chapter;

(B) issue an annual report that—

(i) describes the methods employers are using to meet the requirement of taking good faith steps to recruit United States workers for the occupational classification for which the nonimmigrants are sought, using procedures that meet industry-wide standards;

(ii) describes the best practices for recruiting among employers; and

(iii) contains recommendations on which recruiting steps employers can take to maximize the likelihood of hiring American workers;’’;

and

(3) amending paragraph (5), as redesignated, by striking ‘‘paragraph (2)’’ and inserting ‘‘paragraphs (2) and (3)’’.

CHAPTER 3—OTHER PROTECTIONS

SEC. 4231. POSTING AVAILABLE POSITIONS THROUGH THE DEPARTMENT OF LABOR.

(a) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) (8 U.S.C. 1182(n)), as amended by section 4222(a), is further amended by adding at the end following:

‘‘(A) Not later than 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary of Labor shall establish a searchable Internet website for posting positions as required by paragraph (1)(C). Such website shall be available to the public without charge.

‘‘(B) The Secretary may work with private companies or nonprofit organizations to develop and operate the Internet website described in subparagraph (A).

(c) The Secretary may promulgate rules, standards, and a performance requirement, to carry out the requirements of this paragraph.’’

(b) REQUIREMENT FOR PUBLICATION.—The Secretary of Labor shall submit to Congress and publish in the Federal Register and other appropriate media a notice of the date that the Internet website required by paragraph (6) of section 212(n) of the Immigration and Nationality Act, as amended by subsection (a), will be operational.

(c) APPLICATION.—The amendments made by subsection (a) shall apply to an application filed on or after the date that is 30 days after the date described in subsection (b).

SEC. 4232. REQUIREMENTS FOR INFORMATION FOR H–1B AND L NONIMMIGRANTS.

(a) IN GENERAL.—Section 214 (8 U.S.C. 1184), as amended by section 3608, is further amended by adding at the end the following:

‘‘(1) REQUIREMENTS FOR INFORMATION FOR H–1B AND L NONIMMIGRANTS.—

‘‘(I) In general.—Upon issuing a visa to an individual for nonimmigrant status pursuant to section 214(a)(15) (L) of the Immigration and Nationality Act who is outside the United States, the issuing official shall provide the applicant with—

(A) a brochure outlining the obligations of the applicant’s employer and the rights of the applicant with regard to employment under Federal law, including labor and wage protections; and

(B) the contact information for appropriate Federal agencies or departments that offer additional information or assistance in clarifying such obligations and rights.

‘‘(II) Provision of Material.—Upon the approval of an application of an individual referred to in paragraph (1), the applicant shall be provided with the information described in subparagraphs (A) and (B) of paragraph (1)—

(A) by the issuing officer of the Department of Homeland Security, if the applicant is an individual outside the United States; or

(B) by the appropriate official of the Department of State, if the applicant is outside the United States.

‘‘(2) ELIGIBILITY TO PROVIDE IMMIGRATION PAPERWORK EXCHANGED WITH FEDERAL AGENCIES.—

(A) IN GENERAL.—Not later than 30 days after a labor condition application is filed under section 212(n)(1), an employer shall provide an employee or beneficiary of such application who is or seeking nonimmigrant status under subparagraph (L) of section 101(a)(15) with a copy of the original of all applications and petitions filed by the...
employer with the Department of Labor or the Department of Homeland Security for such employee or beneficiary.

(‘‘B’’ WITHHOLDING OF FINANCIAL OR PROPRIETARY INFORMATION.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare a report analyzing the accuracy and effectiveness of the Secretary of Labor’s current job classification and wage determination system. The report shall—
(1) specifically address whether the systems in place accurately reflect the complexity of current job types as well as geographic wage differences; and
(2) make recommendations concerning necessary updates and modifications.

SEC. 4223. FILING FEE FOR H–1B-DEPENDENT EMPLOYERS.

(a) In General.—Notwithstanding any other provision of law, there shall be a fee required to be submitted by an employer with an application for admission of an H–1B nonimmigrant as follows:

(1) For each fiscal year beginning in fiscal year 2015, $5,000 for applicants that employ 50 or more employees in the United States if more than 50 percent and less than 50 percent of the applicant’s employees are H–1B non-immigrants or L nonimmigrants.

(2) For each of the fiscal years 2015 through 2017, fees collected that employ 50 or more employees in the United States if more than 50 percent and less than 75 percent of the applicant’s employees are H–1B non-immigrants or L nonimmigrants.

(b) Definitions.—In this section:

(1) EMPLOYER.—The term ‘‘employer’’—

(A) means any entity or entities treated as a single employer under subsection (b), (c), or (m), or (o) of section 414 of the Internal Revenue Code of 1986; and

(B) does not include a nonprofit institution of higher education that is a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a)(3) of that Code that has—

(i) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 101(a)) or

(ii) a research organization.

(2) H–1B NONIMMIGRANT.—The term ‘‘H–1B nonimmigrant’’ means an alien admitted as a nonimmigrant pursuant to section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(3) INTENDING IMMIGRANT.—The term ‘‘intending immigrant’’ has the meaning given that term in paragraph (4)(A) of section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).


SEC. 4224. PORTABILITY FOR BENEFICIARIES OF IMMIGRANT PETITIONS.

(a) Increased Portability.—Section 204(i) (8 U.S.C. 1154(i)) is amended—

(1) by amending the subsection heading to read as follows:

‘‘(i) Increased Portability,’’;

(2) by striking ‘‘A petition’’ and inserting the following:

‘‘(1) LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS.—A petition;’’ and

(3) by adding at the end the following:

‘‘(2) PORTABILITY FOR BENEFICIARIES OF IMMIGRANT PETITIONS.—Regardless of whether an employer withdraws a petition approved under paragraph (1), (2), or (3) of section 202(b)—

(A) the petition shall remain valid with respect to a new job if—

(i) the beneficiary changes jobs or employers after the petition is approved; and

(ii) the new job is in the same or a similar occupational classification as the job for which the petition was approved; and

(B) the employer’s legal obligations with respect to the petition shall terminate at the time the beneficiary changes jobs or employers.

(3) DOCUMENTATION.—The Secretary of Labor shall develop a mechanism to provide the beneficiary or prospective employer with sufficient information to determine whether a new position or job is in the same or similar occupational classification as the job for which the petition was approved.

(4) ADJUSTMENT OF STATUS FOR IMMIGRANTS.—Section 245(b) (8 U.S.C. 1182) is amended by adding at the end the following:

‘‘(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) PETITION.—An alien, and any eligible dependents of such alien, who has filed a petition for adjustment of status under section 204(a)(2), may be adjusted to, or at any time thereafter, file an application with the Secretary of Homeland Security for adjustment of status if such petition is pending as of the date the alien becomes immediately available, regardless of whether an immigrant visa is immediately available at the time the application is filed.

(2) SUPPLEMENTAL FEE.—If a visa is not immediately available at the time an application is filed under paragraph (1), the beneficiary of such application shall pay a supplemental fee of five thousand dollars ($5,000) which shall be deposited in the STEM Education and Training Account established under section 286(w). This fee shall not be collected from any dependent for the services or placement of such alien.

(3) AVAILABILITY.—An application filed pursuant to paragraph (2) may not be approved until the alien is on which an immigrant visa becomes available.’’.

Subtitle C—L Visa Fraud and Abuse Protections

SEC. 4301. PROHIBITION ON OUTPLACEMENT OF L NONIMMIGRANTS.

Section 214(c)(2)(F) (8 U.S.C. 1184(c)(2)(F)) is amended to read as follows:

‘‘(F)(1) An employer who employs L–1 non-immigrants in a number of L–1 nonimmigrants that, when added together, does not exceed 10 percent of the total number of full-time equivalent employees employed by the employer shall not, on or before a date 3 years prior to the date of filing of an application for admission of an L–1 nonimmigrant as an L–1 nonimmigrant, retain for the purpose of migration an L–1 nonimmigrant whom such alien would be placed; and

(2) a fee for premium processing of an application for admission of an L–1 nonimmigrant as an L–1 nonimmigrant, which shall be deposited in the Fund established under section 103(a)(15)(L).

SEC. 4302. L EMPLOYER PETITION REQUIREMENTS FOR EMPLOYMENT AT NEW OFFICES.

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

‘‘(G)(1) If the beneficiary of a petition under this paragraph is coming to the United States to open, or be employed in, a new office, the petition may be approved for up to 12 months only if—

(A) the alien has not been the beneficiary of 2 or more petitions under this subparagraph during the immediately preceding 2 years; and

(B) the employer operating the new office has—

(aa) an adequate business plan;

(bb) sufficient physical premises to carry out the proposed business activities; and

(cc) the financial ability to commence doing business immediately upon the approval of the petition.

(2) An extension of the approval period under clause (1) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

(A) evidence that the importing employer meets the requirements of this subsection;
SEC. 4304. LIMITATION ON EMPLOYMENT OF L NONIMMIGRANTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the filing fee for an application for admission of an L nonimmigrant shall be as follows:

(1) For each of the fiscal years beginning in fiscal year 2014, $3,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(2) For each of the fiscal years 2014 through 2017, $10,000 for applicants that employ 50 or more employees in the United States if more than 50 percent and less than 75 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(b) DEFINITIONS.—In this section:

(1) 75 percent of the total number of employees, for each fiscal year after fiscal year 2014, $5,000 for applicants that employ 50 or more employees in the United States if more than 75 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(c) EXCEPTION FOR INTENDING IMMIGRANTS.—In determining the percentage of employees of an employer that are L-1B nonimmigrants or L nonimmigrants under subsection (a), an intending immigrant employee (as defined in section 101(a)(15)(L)) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)) may be counted toward such percentage.

(d) C ONFORMING AMENDMENT.—Section 402 of the Act (8 U.S.C. 1184(c)(2)), as amended by section 4032, is further amended by adding at the end the following:

"(J)(i) The Secretary of Homeland Security may initiate an investigation of any employer or entity by an employee that employs or is in the United States if more than 15 percent of such employees are nonimmigrants described in section 101(a)(15)(L); and

(ii) The Secretary may withhold the identity of a source referred to in clause (I) for the purpose of preventing such source from suffers such employer shall be subject to the requirements of this subsection.

(e) SEC. 4305. FILING FEE FOR L NONIMMIGRANTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the filing fee for an application for admission of an L nonimmigrant shall be as follows:

(1) For each of the fiscal years beginning in fiscal year 2014, $5,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(2) For each of the fiscal years 2014 through 2017, $10,000 for applicants that employ 50 or more employees in the United States if more than 50 percent and less than 75 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(b) DEFINITIONS.—In this section:

(1) 75 percent of the total number of employees, for each fiscal year after fiscal year 2014, $5,000 for applicants that employ 50 or more employees in the United States if more than 75 percent of the applicant’s employees are L-1B nonimmigrants or L nonimmigrants.

(c) EXCEPTION FOR INTENDING IMMIGRANTS.—In determining the percentage of employees of an employer that are L-1B nonimmigrants or L nonimmigrants under subsection (a), an intending immigrant employee (as defined in section 101(a)(15)(L)) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)) may be counted toward such percentage.

(d) CONFORMING AMENDMENT.—Section 402 of the Act entitled “An Act making emergency supplemental appropriations for border security and other insurgency-related activities, and for other purposes”, approved August 13, 2010 (Public Law 111–230; 8 U.S.C. 1101 note), as amended by section 4223(d), is further amended by striking subsections (a) and (c).
SEC. 4308. PROHIBITION ON RETALIATION AGAINST L NONIMMIGRANTS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended by sections 4302, 4303, 4304, and 4306, is further amended by adding at the end the following:

"(L) It is a violation of this subparagraph (J), the employer shall be liable to the employee harmed by such violation for lost wages and benefits.";

SEC. 4309. REPORTS ON L NONIMMIGRANTS.

Section 214(c)(8) (8 U.S.C. 1184(c)(8)) is amended by inserting "(L)" after "(H)".

SEC. 4310. APPLICATION.

The amendments made by this subtitle shall apply to actions filed on or after the date of the enactment of this Act.

SEC. 4311. REPORT ON L BLANKET PETITION PROCESS.

Not later than 6 months after the date of the enactment of this Act, the Inspector General of the Department shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the use of blanket petitions under section 214(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)(A)). Such report shall assess the efficiency and reliability of the process for reviewing such blanket petitions, including whether the process includes adequate safeguards against fraud and abuse.

Subtitle D—Other Nonimmigrant Visas

SEC. 4401. NONIMMIGRANT VISAS FOR STUDENTS.

(a) AUTHORIZATION OF DUAL INTENT FOR F NONIMMIGRANTS SEEKING BACHELOR'S OR GRADUATE DEGREES.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

"(F) an alien having a residence in a foreign country who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 214(m) at an accredited college, university, or language training program, or at an establishment delivering an academic high school, elementary school, or other academic institution in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary of Homeland Security the termination of attendance of each nonimmigrant student, and if any such institution or place of study fails to make such reports, the approval shall be withdrawn, except that such an alien who is not seeking to pursue a degree that is a bachelor's degree or a graduate degree shall have a residence in a foreign country that the alien has no intention of abandoning;

(ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien; and

(iii) an alien who is a national of Canada or Mexico, who maintains actual residence in Canada or Mexico, and who has filed with the Secretary of Labor an attestation under section 212(t); or

(b) DUAL INTENT.—Section 214(b) (8 U.S.C. 1184(b)) is amended to read as follows:

"(b) DUAL INTENT.—The fact that an alien is, or intends to be, the beneficiary of an application for a preference status filed under section 214, seeks a change or adjustment of status or is, or intends to be, the beneficiary of an application for a preference status filed under section 214, seeks a change or adjustment of status after completing a legitimate period of nonimmigrant stay, or has otherwise sought to maintain status in the United States shall not constitute evidence of intent to abandon a foreign residence that would preclude the alien from obtaining or maintaining—

(v) solely to perform services in a specialty occupation in the United States in that the alien is a national of the Republic of Korea and 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 with the Secretary of Labor an attestation under section 212(t), (v) to perform services in a specialty occupation in the United States if the alien is a national of a country, other than Chile, Singapore, or Australia, with which the United States has entered into a free trade agreement (regardless of whether such an agreement is a treaty of commerce and navigation) and 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 with the Secretary of Labor an attestation under section 212(t); or

(vi) to perform services as an employee and who has at least a high school education or its equivalent, or has during the most recent 5-year period, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience if the alien is a national of a country—

(I) designated as an eligible sub-Saharan African country under section 104 of the African Growth and Opportunity Act (19 U.S.C. 3703); or

(II) designated as a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);"

(b) NUMERICAL LIMITATION.—Section 214(g)(11) (8 U.S.C. 1184(g)(11)) is amended—

(1) in subparagraph (A), by striking "section 214(15)(F)" and inserting "section 214(15)(E)"; and

(2) by amending subparagraph (B) to read as follows:

"(B) The numerical limitation referred to in subparagraph (A) for each fiscal year is—

(1) 10,500 for each of the nationalities identified in clause (ii) of section 214(15)(E); and

(2) 10,500 for all aliens described in clause (vi) of such section.";

(c) FREE TRADE AGREEMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended by adding at the end the following:

"(12) (A) The free trade agreements referred to in section 214(15)(E)(iv) are defined as any free trade agreement designated by the Secretary of Homeland Security and the Secretary of the Treasury as providing for the concurrent use of the United States Trade Representative and the Secretary of State.
“(B) The Secretary of State may not approve a number of initial applications submitted for aliens described in clause (iv) or (v) of section 101(a)(15)(E) that is more than 5,000 for each country with which the United States has entered into a Free Trade Agreement.

(C) The applicable numerical limitation referred to in paragraph (3) of subsection (a) shall apply only to principal aliens and not to the spouses or children of such aliens.”


SEC. 4406. NONIMMIGRANT ELEMENTARY AND SECONDARY SCHOOL STUDENTS.

Section 214(m)(1)(B) (8 U.S.C. 1184(m)(1)(B)) is amended by inserting “the following” follows through “(ii)” and inserting “unless”.

SEC. 4407. J–1 SUMMER WORK TRAVEL VISA EXCHANGE VISITOR PROGRAM.

Section 281 (8 U.S.C. 1351), as amended by section 4105, is further amended by adding at the end the following:

“(e) J–1 SUMMER WORK TRAVEL PARTICIPANT FEE.—In addition to the fees authorized under subsection (a), the Secretary of State shall collect a $200 non-immigrant entering under the Summer Work Travel program conducted by the Secretary of State pursuant to the Foreign Affairs Reform and Restriction Act of 1996 (division G of Public Law 105–277; 112 Stat. 2681–761). Fees collected under this subsection shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.”

SEC. 4408. J–VISA ELIGIBILITY.

(a) SPEAKERS OF CERTAIN FOREIGN LANGUAGES.—Section 101(a)(15)(J) (8 U.S.C. 1184(a)(15)(J)) is amended by adding at the end the following:

“(J) an alien having a residence in a foreign country which he has no intention of abandoning who—

(ii) 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, who is coming to the United States temporarily as a participant in a program 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 such alien is coming to the United States temporarily as a participant in a program under which such 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 such alien or following to join such alien; or

(ii) is coming to the United States to perform work involving specialized knowledge or skill, including teaching on a full-time or part-time basis, that requires proficiency of the spoken language in countries of which fewer than 5,000 nationals were lawfully admitted for permanent residence in the United States in the previous 3 years.

(b) REQUIREMENT FOR ANNUAL LIST OF COUNTRIES.—The Secretary of State shall publish an annual list of the countries described in clause (ii) of section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)), as added by subsection (a).

(c) SUMMER WORK TRAVEL PROGRAM EMPLOYMENT IN SEAFOOD PROCESSING.—Notwithstanding any other provision of law or regulation, including sections 4101, 4105, and 4301 of title 5, Code of Federal Regulations, or any proposed rule, the Secretary of State shall permit participants in the Summer Work Travel program described in section 212(j) who are admitted under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)), as added by subsection (a), to be employed in seafood processing positions in Alaska.
$100 fee from each nonimmigrant admitted under section 101(a)(15)(F)(i). Fees collected under this subsection shall be deposited into the Comprehensive Immigration Reform Trust Fund under section 321(a) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

(2) RULEMAKING.—The Secretary of Homeland Security shall promulgate regulations to ensure that—

(A) the fee authorized under paragraph (1) is paid by each J-1 nonimmigrant seeking entry into the United States;

(B) a fee related to the hiring of a J-1 nonimmigrant is not deducted from the wages or other compensation paid to the J-1 nonimmigrant; and

(C) not more than 1 fee is collected per J-1 nonimmigrant.

SEC. 4110. PILOT PROGRAM FOR REMOTE B NONIMMIGRANT VISA INTERVIEWS.

Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

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sec. 222. (8 U.S.C. 1202) as amended by paragraph (1) of section 4110, the Secretary of State—
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(A) shall develop and conduct a pilot program for processing visas under section 101(a)(15)(j) of the Immigration and Nationality Act using secure videoconferencing technology as a method for conducting any required in person interview of an applicant; and

(B) on consultation with the heads of the other Federal agencies that use such secure communications, shall help ensure the security of the videoconferencing transmission and encryption conducted under subparagraph (A).

(2) Not later than 90 days after the termination of the pilot program authorized under paragraph (1), the Secretary of State shall submit to the appropriate committees of Congress a report that contains—

(A) a detailed description of the results of such program, including an assessment of the efficacy, efficiency, and security of the remote videoconferencing technology as a method for conducting visa interviews of applicants; and

(B) recommendations for whether such program should be continued, broadened, or modified.

(3) The pilot program authorized under paragraph (1) may not be conducted if the Secretary of State determines that such program—

(A) poses an undue security risk; and

(B) cannot be conducted in a manner consistent with maintaining security controls.

(4) Of any data or evidence that the Secretary makes a determination under paragraph (3), the Secretary shall submit a report to the appropriate committees of Congress that describes the reasons for such determination.

(5) In this subsection:

(A) The term ‘appropriate committees of Congress’ means—

(i) the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(ii) the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(B) The term ‘in person interview’ includes interviews conducted using remote video technology.

SEC. 4111. PROVIDING CONSULAR OFFICERS WITH ACCESS TO ALL TERRORIST DATABASES AND REQUIRING HEARTHED SCRUTINY OF APPLICATIONS FOR ADMISSION FROM PERSONS LISTED ON TERRORIST DATABASES.

Section 235(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(5)), as amended by section 235(b)(6)(B)(i)(III), is further amended—

(1) in subparagraph (C) by striking ‘‘or’’ at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ‘‘;’’; and

(3) by adding at the end the following:

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(G) section 106 as an abused derivative alien.
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(4) by adding at the end the following:

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(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.
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(a) ABUSED DERIVATIVE ALIEN DEFINED.—

In this section, the term ‘‘abused derivative alien’’ means an alien who—

(1) is the spouse or child admitted under section 101(a)(15) or pursuant to a blue card status granted under section 211 of the Border Security, Economic Opportunity, and Immigration Modernization Act;

(2) is accompanying or following to join a principal alien admitted under such a section; and

(3) has been subjected to battery or extreme cruelty by such principal alien.

(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—The Secretary of Homeland Security—

(1) shall grant or extend the status of admission of an abused derivative alien under section 101(a)(15) or section 211 of the Border Security, Economic Opportunity, and Immigration Modernization Act under which the principal alien was admitted for the longer of—

(A) the same period for which the principal alien was initially admitted; or

(B) a period of 3 years;

(2) may renew a grant or extension of status made under paragraph (1);

(3) shall grant employment authorization to an abused derivative alien; and

(4) may adjust the status of an abused derivative alien to that of an abused alien lawfully admitted for permanent residence if—

(A) the alien is admissible under section 212(a) or the Secretary of Homeland Security finds the alien’s continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest; and

(B) the status under which the principal alien was admitted to the United States would have potentially allowed for eventual adjustment of status.

(c) EFFECT OF TERMINATION OF RELATIONSHIP.—Termination of the relationship with a principal alien shall not affect the status of an abused derivative alien under this section if battery or extreme cruelty by the principal alien was 1 central reason for termination of the relationship.

(d) PROCEDURES.—Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 202(a)(1)(C).

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section is amended by striking the item relating to section 106 and inserting the following:

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Sec. 106. Relief for abused derivative aliens.
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SEC. 4114. NONMIGRANT CREWMAN LANDING TEMPORARILY IN HAWAII.

(a) IN GENERAL.—Section 101(a)(15)(D)(ii) (8 U.S.C. 1101(a)(15)(D)(ii)) is amended—

(1) by inserting ‘‘Guam’’ both places that Guam appears and inserting ‘‘Hawaii, Guam’’; and

(2) by striking the semicolon at the end and inserting ‘‘or some other vessel or aircraft’’;

(b) TREATMENT OF DEPARTURES.—In the administration of section 101(a)(15)(D)(i) of the Border Security, Economic Opportunity, and Immigration Modernization Act (8 U.S.C. 1101(a)(15)(D)(i)), an alien crewman shall be considered to have departed from Hawaii, Guam, or the Commonwealth of the Northern Mariana Islands and the territorial waters of Hawaii, Guam, or the Commonwealth of the Northern Mariana Islands,
respectively, without regard to whether the alien arrives in a foreign state before returning to Hawaii, Guam, or the Commonwealth of the Northern Mariana Islands.

(c) AMENDMENT.—The Act entitled “An Act to amend the Immigration and Nationality Act to permit nonimmigrant alien crewmen on fishing vessels to stop temporarily at ports in Guam,” approved October 21, 1986 (Public Law 99–955; 8 U.S.C. 1101 note) is amended by striking section 2.

SEC. 4415. TREATMENT OF COMPACT OF FREE ASSOCIATION MIGRANTS.

(4)(A) (relating to athletes)) not later than 14

(8) U.S.C. 1611(a), 1612(b)(1), 1613(a)) shall not

(2) in the second sentence—

(1) in the first sentence, by inserting “(i)” before “‘Any person’”;

(2) in the second sentence—

(a) in General.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 214 the following:

(b) CONFORMING AMENDMENTS.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—

(1) in subsection (f), in the matter preceeding paragraph (1), by striking “subsection (g)” and inserting “subsections (g) and (h)”;

(2) by adding at the end the following:

and (D).

(1) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall conform all regulations promulgated by the Secretary of Health and Human Services that reference the term “lawfully present” for purposes of health-related programs administered by the Secretary of Health and Human Services to the definition of “lawfully residing” in section 1962(v)(4)(A) of the Social Security Act (42 U.S.C. 1396b(v)(4)(A)).

(2) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the same changes to regulations promulgated by the Secretary of the Treasury that reference the term “lawfully present” for purposes of health-related programs administered by the Secretary of the Treasury as the Secretary of Health and Human Services makes under paragraph (1).

Subtitle E—JOLT Act

SEC. 4501. SHORT TITLES.

This subtitle may be cited as the “Jobs Originated through Launching Travel Act of 2013” or “JOLT Act” of this Act.

SEC. 4502. PREMIUM PROCESSING.

Section 221 (8 U.S.C. 1201) is amended by inserting at the end the following:

‘‘(j) PREMIUM PROCESSING.—

‘‘(1) PILOT PROCESSING SERVICE.—Recognizing that the best solution for expedited processing is low interview wait times for all applicants, the Secretary shall nevertheless establish, on a limited, pilot basis only, a fee-based premium processing service to expedite interview appointments. In establishing a premium processing service, the Secretary may—

‘‘(A) determine the consular posts at which the pilot service will be available;

‘‘(B) establish the duration of the pilot service;

‘‘(C) define the terms and conditions of the pilot service, with the goal of expediting visa appointments which the petition for those elected to pay said fee for the service; and

‘‘(D) resources permitting, during the pilot service, to expedite consular processing in locations advantageous to foreign policy objectives or in highly populated locales.

(‘‘2) FEES.—(A) AUTHORITY TO COLLECT.—The Secretary of State is authorized to collect, and set the amount of, a fee imposed for the premium processing service by the Secretary of State shall set the fee based on all relevant considerations including, the cost of expedited service.

(‘‘2) EQUITABLE FEES.—Fees collected under the authority of subparagraph (A) shall be deposited as an offsetting collection to any Department of State appropriation, to recover the cost of providing consular services. Such fees shall remain available for obligation until expended.

(‘‘C) RELATIONSHIP TO OTHER FEES.—Such fees are in addition to any currently being collected by the Department of State.

(‘‘D) NONREFUNDABLE.—Such fee will be nonrefundable to the applicant.

(‘‘3) DESCRIPTION OF PREMIUM PROCESSING.—Premium processing pertains solely to the expedited scheduling of a visa interview. Utilizing the premium processing service for an expedited interview appointment does not establish the applicant’s eligibility for a visa. The Secretary of State shall, if possible, perform all premium processing of potential delays in visa issuance due to additional screening requirements, including necessary security-related checks and clearances.

(‘‘4) REPORT TO CONGRESS.—

‘‘(A) REQUIREMENT FOR REPORT.—Not later than 18 months after the date of the enactment of the JOLT Act of 2013, the Secretary of State shall submit to the appropriate committees of Congress a report on the results of the pilot service carried out under this subsection.

‘‘(B) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this paragraph, the term ‘appropriate committees of Congress’ means—

(1) the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on Appropriations of the House of Representatives.

SEC. 4503. ENCOURAGING CANADIAN TOURISM TO THE UNITED STATES.

Section 214 (8 U.S.C. 1184), as amended by sections 3609, 4233, and 4405, is further amended by adding at the end the following:

‘‘(v) CANADIAN RETIREES.—

‘‘(1) IN GENERAL.—The Secretary of Homeland Security may admit as a visitor for pleasure described in paragraphs (5)(B), (6)(C), and (8) any alien for a period not to exceed 240 days, if the alien demonstrates, to the satisfaction of the Secretary, that the alien—

‘‘(A) is a citizen of Canada;

‘‘(B) is at least 55 years of age;

‘‘(C) maintains a residence in Canada;

‘‘(D) owns a residence in the United States or has rented a residential accommodation in the United States for the duration of the alien’s stay in the United States;

‘‘(E) is not inadmissible under section 212; and

‘‘(F) is not described in any ground of deportability under section 237;

‘‘(G) will not engage in employment or labor for hire in the United States; and

‘‘(H) will not seek 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. 1361).

‘‘(2) SPOUSE.—The spouse of an alien described in paragraph (1) may be admitted under the same terms as the principal alien if the spouse satisfies the requirements of paragraph (1), other than subparagraphs (B) and (D).
(3) IMMIGRANT INTENT.—In determining eligibility for admission under this subsection, maintenance of a residence in the United States shall not be considered evidence that the alien intends to abandon the alien’s residence in Canada.

(4) PERIOD OF ADMISSION.—During any single 365-day period, an alien may be admitted as described in section 101(a)(15)(B) pursuant to this subsection for a period not to exceed 240 days, beginning on the date of admission. Unless an extension is approved by the Secretary of Homeland Security, an alien may not remain in the United States during such 240-day period shall not toll the expiration of such 240-day period.

SEC. 4504. RETIREE VISA.

(a) NONIMMIGRANT STATUS.—Section 101(a)(15), as amended, is further amended by inserting after subparagraph (X) the following:

‘‘(Y) subject to section 214(w), an alien who, after the date of the enactment of the JOLT Act of 2013—

‘‘(i)(I) uses at least $500,000 in cash to purchase

chase 1 or more residences in the United States that meets the criteria set

paragraph (2).

by striking at the end the following:

‘‘(w) VISAS OF NONIMMIGRANTS DESCRIBED IN

in the United States at a

immigrant described in clause (i) if accompanying

or following to join the alien.’’.

(b) VISA APPLICATION PROCEDURES.—Section 214 (8 U.S.C. 1184), as amended by sections 3609, 4233, 4405, and 4503, is further amended by adding at the end the following:

‘‘(w) VISAS OF NONIMMIGRANTS DESCRIBED

in section 101(a)(15)(Y)—

‘‘(1) The Secretary of Homeland Security shall authorize the issuance of a nonimmigrant visa to any alien described in section 101(a)(15)(Y) who submits a petition to the Secretary that—

‘‘(A) demonstrates, to the satisfaction of the Secretary, that the alien—

‘‘(i) is a resident in the United States that meets the criteria set forth in section 101(a)(15)(Y); (ii) is at least 55 years of age; (iii) possesses health insurance coverage; (iv) is not inadmissible under section 212; and

‘‘(v) will comply with the terms set forth in paragraph (2); and

‘‘(2) An alien who is issued a visa under this subsection—

‘‘(A) shall reside in the United States at a residence that meets the criteria set forth in section 101(a)(15)(Y)(i) for more than 180 days per year;

‘‘(B) is not authorized to engage in employment in the United States, which is directly related to the management of the residential property described in section 101(Y)(i)(II);

‘‘(C) is not eligible 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)); and

‘‘(D) may not renew such visa every 3 years under the same terms and conditions.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 217 (8 U.S.C. 1187) is amended—

(1) by striking ‘‘Attorney General’’ each place the term appears (except in subsection

(c)(11)(B) and inserting ‘‘Secretary of Home-

and inserting ‘‘Secretary of Homeland Security’’; and

(2) in subsection (c)—

(2A) in paragraph (2)(C), by striking ‘‘Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations, the Committee on Homeland Security, and the Committee on Governmental Affairs of the Senate’’ and inserting ‘‘appropriate congressional committees’’; and

(2B) in paragraph (5)(A)(i)(III), by striking ‘‘Committee on the Judiciary, the Committee on Homeland Security, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate’’ and inserting ‘‘appropriate congressional committees’’; and

(2C) in paragraph (7), by striking subparagraph (E).
and inserting "WAIVER INFORMATION.—In refusing"

"(A) the country meets all other require-
ments of paragraph (2);"

(B) the Secretary of Homeland Security deter-
mines that the totality of the country's
security risk mitigation measures provide
assurance that the country's participation in
the program would not compromise the law
enforcement, security interests, or enforce-
ment of the immigration laws of the United
States;

(C) there has been a general downward
trend in the percentage of nationals of the
country refused nonimmigrant visas under
section 101(a)(15)(B);" (f) TERMINATION OF DESIGNATION; PROBATIONARY PERIOD.—If the Secretary determines that any instance of noncompliance with the program requirements under subparagraph (A)(ii) through (F) of subsection (c)(2) that were identified in the latest peri-
odic evaluation has not been remedied by the end of the fiscal year in which the
Secretary shall end the country's probationary period.

(2) a description of any improvements
needed to minimize the number of aliens who enter the United States without the
visa waiver designated in paragraph (1)." (g) SENSE OF CONGRESS ON PRIORITY FOR REVIEW OF PROGRAM COUNTRIES.—It is the sense of Congress that in the
process of the reviews of countries in which circumstances indicate that such a review is necessary or advisable.

(b) ELIGIBILITY OF HONG KONG SPECIAL AD-
MINISTRATIVE REGION FOR DESIGNATION FOR PARTICIPATION IN VISA WAIVER PROGRAM FOR CERTAIN VISITORS TO THE UNITED STATES.—Section 271(c) (8 U.S.C. 1187(c)) is amended by adding at the end the following new para-
graph:

"(I) the individual is sponsored by an inter-
national organization selected by the Sec-
retary, which maintain strong working rela-
tionships with the United States."

(2) REQUIREMENTS.—An individual may not
be enrolled in a registered traveler pro-
gram unless—

(i) the individual is sponsored by an inter-
national organization selected by the Sec-
retary, which maintain strong working rela-
tionships with the United States.

(ii) the government that issued the pass-
port that the individual is using has entered into a
Traveler Program unless the individual has

(b) INITIAL PROBATIONARY PERIOD.—If the
Secretary of Homeland Security determines that a program country is not in compliance
with the program requirements under
subparagraphs (A)(ii) through (F) of subsection (c)(2), the Secretary of Homeland
Security shall place the program country in proba-
tionary status for the fiscal year following the fiscal year in which the periodic evalua-
tion is completed.

(3) ACTIONS AT THE END OF ADDITIONAL PROBATIONARY PERIODS.—At the end of all probationary periods granted to a country pursuant to paragraph (3)(B)(i), the Sec-
recty shall take 1 of the following actions:

(A) COMPLIANCE DURING ADDITIONAL PRO-
BATIONARY PERIOD.—The Secretary shall terminate the country's participation in the program; or

(ii) on an annual basis, the Secretary may
continue the country's probationary status
if the Secretary determines that the country's continued participation in the program
would not compromise the law enforcement, security interests, or enforcement of
the immigration laws of the United States;

(b) may be designated as a program coun-
try for purposes of this subsection if such
region meets requirements applicable for such
designation in this subsection."

SEC. 4507. EXPEDITING ENTRY FOR PRIORITY VISITORS.

"(a) EXPEDITING ENTRY FOR PRIORITY VISITORS.

(1) IN GENERAL.—The Secretary of Home-
land Security may expedit for a registered traveler program to include
eligible individuals employed by inter-
ational organizations selected by the Sec-
recty, which maintain strong working rela-
tionships with the United States.

(2) REQUIREMENTS.—An individual may not
be enrolled in a registered traveler pro-
gram unless—

(A) the Secretary of Homeland Security shall conduct a review of the methods used by the Sec-
recty—

(i) the individual is sponsored by an inter-
national organization selected by the Sec-
recty, which maintain strong working rela-
tionships with the United States.

(ii) the government that issued the pass-
port that the individual is using has entered into a
Traveler Program unless the individual has

(b) INITIAL PROBATIONARY PERIOD.—If the
Secretary of Homeland Security determines that a program country is not in compliance
with the program requirements under
subparagraphs (A)(ii) through (F) of subsection (c)(2), the Secretary of Homeland
Security shall place the program country in proba-
tionary status for the fiscal year following the fiscal year in which the periodic evalua-
tion is completed.

(3) ACTIONS AT THE END OF THE INITIAL PROBATIONARY PERIOD.—At the end of the initial probationary period of a country under paragraph (2)(B), the Secretary of Homeland
Security shall take 1 of the following ac-
tions:

"(A) COMPLIANCE DURING INITIAL PROBA-
TIONARY PERIOD.—If the Secretary deter-
mines that all instances of noncompliance with the program requirements under
paragraphs (A)(ii) through (F) of subsection (c)(2) that were identified in the latest peri-
odic evaluation have been remedied by the end of the initial probationary period, the Secretary shall end the country's proba-
tionary period.

"(B) NONCOMPLIANCE DURING INITIAL PROBA-
TIONARY PERIOD.—If the Secretary deter-
mines that any instance of noncompliance with the program requirements under
subparagraphs (A)(ii) through (F) of subsection (c)(2) that were identified in the latest peri-
odic evaluation has not been remedied by the end of the initial probationary period—

(i) the Secretary may terminate the coun-
try's participation in the program; or

(ii) on an annual basis, the Secretary may
continue the country's probationary status
if the Secretary determines that the country's continued participation in the program
would not compromise the law enforcement, security interests, or enforcement of
the immigration laws of the United States;

"(C) there has been a general downward
trend in the percentage of nationals of the
country refused nonimmigrant visas under
section 101(a)(15)(B);"
SEC. 4508. VISA PROCESSING. (a) IN GENERAL.—Notwithstanding any other provision of law and not later than 90 days after the date of the enactment of this Act, the Secretary of State shall:

(1) require United States diplomatic and consular missions—

(A) to conduct visa interviews for nonimmigrant visa applicants with respect to H-2B nonimmigrants to ensure that such interviews are conducted in an expeditious manner, consistent with national security requirements, and in recognition of resource allocation considerations, such as the need to ensure provision of consular services to citizens of the United States;

(B) to set a goal of interviewing 80 percent of nonimmigrant visa applicants, worldwide, within 3 weeks of receipt of application, subject to the conditions outlined in subparagraph (A); and

(C) to explore expanding visa processing capacity in China and Brazil, with the goal of maintaining interview wait times under 15 work days on a consistent, year-round basis, recognizing that demand may vary unexpectedly and that the first priority of United States missions abroad is the protection of citizens of the United States; and

(2) require in any subsequent budget request of Congress a detailed strategic plan that describes the resources needed to carry out paragraph (1).

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this section, the term "appropriations committees of Congress" means—

(1) the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(c) SEMI-ANNUAL REPORT.—Not later than 30 days after the end of the first 6 months after the date of the enactment of this Act and at the beginning of each subsequent quarter, the Secretary of State shall submit to the appropriate committees of Congress a report that provides:

(1) data substantiating the efforts of the Secretary of State to meet the requirements and goals described in subsection (a);

(2) a summary of the cost or benefit of any or all changes the Secretary of State made to the consular processing system or the comprehensive strategy outlined in a previous report; and

(3) any measures that the Secretary plans to implement to meet such requirements and goals.

(d) SAVINGS PROVISION.—(1) IN GENERAL.—Nothing in subsection (a) may be construed to affect a consular officer’s authority—

(A) to deny a visa application under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)); or

(B) to initiate any necessary or appropriate security-related check or clearance.

(2) SECURITY CHECKS.—The completion of a security-related check or clearance shall not be subject to the time limits set out in subsection (a).

SEC. 4509. B Visa Fee. Section 261 (8 U.S.C. 1351), as amended by sections 410, 4407, and 4409, is further amended by adding at the end the following:

“(g) B Visa Fee.—In addition to the fees authorized under subsection (a), the Secretary of Homeland Security shall collect a $5 fee from each nonimmigrant admitted under section 101(a)(15)(B). Fees collected under this subsection shall be deposited into the Comprehensive Immigration Reform Trust Fund.

SEC. 4601. EXTENSION OF RETURN WORKER EXEMPTION TO H-2B NUMERICAL LIMITATION. (a) IN GENERAL.—(1) Subparagraph (A) of paragraph (10) of section 214(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1184(b)(3)), as redesignated by section 410(a)(3), is amended by striking "fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitations for fiscal years 2007 and 2008." and inserting "fiscal year 2013 shall not again be counted toward such limitation during fiscal years 2014 through 2018.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective during the period beginning on the effective date described in subsection (c) and ending on September 30, 2018.

(b) TECHNICAL AND CLARIFYING AMENDMENTS. (1) NONIMMIGRANT STATUS.—Section 101(a)(15)(P) (8 U.S.C. 1101(a)(15)(P)) is amended—

(A) in clause (iii), by striking "or" at the end;

(B) in clause (iv), by striking "clause (i), (ii), or (iii)," and inserting "clause (i), (ii), (iii), or (iv);";

(C) by redesignating clause (iv) as clause (v);

and

(D) by inserting after clause (iii) the following:

"[(v) a ski instructor, who has been certified as a level I, II, or III ski and snowboard instructor by the Professional Ski Instructors of America or the American Association of Snowboard Instructors, or received an equivalent certification in the alien’s country of origin, and is seeking to enter the United States temporarily to perform instructional work;]

(2) AUTHORIZED PERIOD OF STAY; NUMERICAL LIMITATION.—Section 214(a)(2)(B) (8 U.S.C. 1184(a)(2)(B)) is amended in the second sentence—

(A) by inserting "or ski instructor" after "athletes;" and

(B) by inserting "or ski instructor" after "athletes.

(3) CONSTRUCTION.—Nothing in the amendments made by this subsection may be construed as preventing an alien who is a ski instructor from obtaining nonimmigrant status under section 101(a)(15)(P)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)) if such alien is otherwise qualified for such status.

(4) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on January 1, 2013.

SEC. 4602. OTHER REQUIREMENTS FOR H-2B EMPLOYERS. Section 214 (8 U.S.C. 1182(b)), as amended by sections 3609, 4233, 4405, 4503, and 4694, is further amended by adding at the end the following:

"(x) REQUIREMENTS FOR H-2B EMPLOYERS.—(1) H-2B WORKERS.—In this subsection the term ‘H-2B nonimmigrant’ means an alien admitted to the United States pursuant to section 101(a)(15)(H)(ii)(b)

"(2) NON-DISPLACEMENT OF UNITED STATES WORKERS.—An employer who seeks to employ an H-2B nonimmigrant admitted in an occupational classification shall certify and attest that the employer did not displace and will not displace a United States worker employed by the employer in the same metro statistical area where such nonimmigrant will be hired within the period beginning 90 days before the start date and ending on the end date for which the employment is authorized.

(3) TRANSPORTATION COSTS.—The employer shall pay the transportation costs, including reasonable subsistence costs during the period of travel, for an H-2B nonimmigrant hired by the employer under this Act.

(A) from the place of recruitment to the place of such nonimmigrant’s employment; and

(B) from the place of employment to such nonimmigrant’s place of permanent residence or a subsequent workplace.

(4) PAYMENT OF FEES.—A fee related to the hiring of an H-2B nonimmigrant required to be paid by an employer under this Act shall be paid by the employer and may not be deducted from the wages or other compensation paid to a nonimmigrant.

(5) H-2B NONIMMIGRANT LABOR CERTIFICATION APPLICATION FEE.—(A) IN GENERAL.—To recover costs of carrying out labor certification activities under the H-2B program, the Secretary of Labor shall impose a $500 fee on an employer that submits an application for an employment certification for aliens granted H-2B nonimmigrant status to the Secretary of Labor under this paragraph on or after the date that is 30 days after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(B) USE OF FEES.—The fees collected under paragraph (A) shall be deposited in the Comprehensive Immigration Reform Trust Fund established under section 6 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 4603. EXECUTIVES AND MANAGERS. Section 214(a)(1) (8 U.S.C. 1184(a)(1)) is amended by adding at the end the following:

"(a) aliens admitted under section 101(a)(15) shall include—

"(A) executives and managers employed by a firm or corporation or other legal entity or an affiliate or subsidiary thereof who are principally stationed abroad and who seek to enter the United States for periods of 90 days or less to oversee and observe the United States operations of their related companies, and establish strategic objectives when needed; or

(B) employees of multinational corporations who enter the United States to observe the operations of a United States subsidiary company and participate in select leadership and development training activities, whether or not the activity is part of a formal or classroom training program for a period not to exceed 180 days.

Nonimmigrant aliens admitted pursuant to section 101(a)(15) and engaged in the activities described in the immediately preceding paragraph (A) or (B) may not receive a salary from a United States source, except for incidental expenses for meals, travel, lodging and other basic services.

SEC. 4604. HONORARY. Section 212(q) (8 U.S.C. 1112(q)) is amended to read as follows:

"Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses, for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, or for a performance, appearance and participation in United States based programming, including scripted or unscripted programming (with services not rendered for more than 60 days in a 6 month period) if the alien received a letter of invitation from the institution, organization, or media outlet, such payment is offered by an institution, organization, or media outlet described in this paragraph and is made for services conducted for the benefit of that institution, entity or media outlet and if the alien has not
accepted such payment or expenses from more than 5 institutions, organizations, or media outlets in the previous 6-month period. Any alien who is admitted under section 101(a)(15) or any other valid nonimmigrant status or any other valid temporary nonimmigrant status or any other valid temporary nonimmigrant status may perform services under this section without reentering the United States and without a letter of invitation. Such services do not receive an remuneration including an honorarium payment or incidental expenses, but may receive prize money.

"(2) An institution, organization, or media outlet described in this paragraph—

(a) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or a related or affiliated nonprofit entity;

(b) a nonprofit research organization or a governmental research organization; and

(c) a network, cable, or radio service, production company, new media, internet and mobile based companies, who create or distribute programming content.

SEC. 4605. NONIMMIGRANTS PARTICIPATING IN RELIEF OPERATIONS.

Section 214 (8 U.S.C. 1184), as amended by sections 3609, 4233, 4365, 4503, 4504, and 4602, is further amended by adding at the end following:

"(v) NONIMMIGRANTS PARTICIPATING IN RELIEF OPERATIONS.—

"(1) IN GENERAL.—An alien coming individually, or aliens coming as a group, to participate in relief operations, including critical infrastructure and public safety, or improvements, needed in response to a Federal or State declared emergency or disaster, may be admitted to the United States pursuant to section 101(a)(15)(B) for a period of not more than 90 days if each such alien has been employed in a foreign country by 1 employer for not less than 1 year prior to the date the alien is so admitted.

"(2) PROHIBITION ON DIRECT PAYMENTS FROM A UNITED STATES SOURCE.—During a period of admission pursuant to paragraph (1), an alien may not receive direct payments from a United States source, except for incidental expenses for meals, travel, lodging, and other basic services.

SEC. 4606. NONIMMIGRANTS PERFORMING MAINTENANCE ON COMMON CARRIERS.

Section 214 (8 U.S.C. 1184), as amended by sections 3609, 4233, 4365, 4503, 4504, and 4602, is further amended by adding at the end following:

"(a) NONIMMIGRANTS PERFORMING MAINTENANCE ON COMMON CARRIERS.—

"(1) IN GENERAL.—An alien coming individually, or aliens coming as a group, who possesses specialized knowledge to perform maintenance on common carriers, including to airlines, cruise lines, and railways, if such maintenance or repairs are occurring to equipment or machinery manufactured or used in the United States and are needed for purposes relating to life, health, and safety, may be admitted to the United States pursuant to section 101(a)(15)(B) for a period of 90 days if each such alien has been employed in a foreign country by 1 employer for not less than 1 year prior to the date the alien is so admitted.

"(2) PROHIBITION ON INCOMES FROM A UNITED STATES SOURCE.—During a period of admission pursuant to paragraph (1), an alien may not receive income from a United States source, except for incidental expenses for meals, travel, lodging, and other basic services.

"(3) FIG. 1—"(A) IN GENERAL.—An alien admitted pursuant to paragraph (1) shall pay a fee of $500 in addition to any fee assessed to cover the costs to process an application under this subsection.

"(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 4607. AMERICAN JOBS IN AMERICAN FORESTS.

(a) SHORT TITLE.—This section may be cited as the "American Jobs in American Forests Act of 2013.

(b) DEFINITIONS.—In this section:

(1) FORESTRY.—The term "forestry" means—

(A) propagating, protecting, and managing forest tracts;

(b) felling trees and cutting them into logs;

(c) using hand tools or operating heavy powered equipment to perform activities such as preparing sites for planting, tending, and harvesting crops of vegetables, trees, and shrubs, and processing and preparing logs and wood products; and

(d) planting seedlings and trees.


(3) PROSPECTIVE H-2B EMPLOYER.—The term "prospective H-2B employer" means a United States business that is considering employing 1 or more nonimmigrants, described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) of this title).

(4) STATE WORKFORCE AGENCY.—The term "State workforce agency" means the work force agency of the State in which the prospective H-2B employer intends to employ H-2B nonimmigrants.

(a) DEPARTMENT OF LABOR.—

(1) RECRUITMENT.—As a component of the labor certification process required before H-2B nonimmigrants are offered forestry employment in the United States, the Secretary of Labor shall require all prospective H-2B employers, before they submit a petition to hire H-2B nonimmigrants to work in forestry, to conduct a robust effort to recruit United States workers, including, to the extent the State workforce agency considers appropriate—

(A) advertising at employment or job-placement events, such as job fairs;

(B) placing an opportunity with the State workforce agency and working with such agency to identify qualified and available United States workers;

(C) advertising on appropriate media, including local radio stations and commonly used, reputable Internet job-search sites; and

(D) such other recruitment efforts as the State workforce agency considers appropriate for the sector or positions for which H-2B nonimmigrants would be considered.

(2) SEPARATE CERTIFICATIONS AND PETITIONS.—The prospective H-2B employer shall submit a separate application for temporary employment certificate and petition for each State in which the employer plans to employ H-2B nonimmigrants in forestry for a period of 7 days or longer. The Secretary of Labor shall review each application for temporary employment certification and determine separately whether certification is warranted.

(b) STATE WORKFORCE AGENCIES.—The Secretary of Labor may not grant a temporary labor certification to a prospective H-2B employer seeking to employ H-2B nonimmigrants in forestry until after the Director of the State workforce agency in each State in which such workers are sought—

(i) submits a report to the Secretary of Labor certifying that—

(A) the employer complied with all recruitment requirements set forth in subsection (c)(1) and there is legitimate demand for the employment of H-2B nonimmigrants in each of those States; or

(b) the employer has amended the application by removing or making appropriate modifications with respect to the States in which the criteria set forth in subparagraph (A) have not been met; and

(2) makes a formal determination that neither the United States nor the prospective employer is not qualified or available to fill the employment opportunities offered by the prospective H-2B employer.

Subtitle G—W Nonimmigrant Visas

SEC. 4701. BUREAU OF IMMIGRATION AND LABOR MARKET RESEARCH.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—Except as otherwise specifically provided, the term "Bureau" means the Bureau of Immigration and Labor Market Research established under subsection (b).

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Bureau.

(b) CONSTRUCTION OCCUPATION.—The term "construction occupation" means an occupation classified by the Bureau of Labor Statistics as being within the construction industry for the purposes of publishing the Bureau's workforce statistics.

(c) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a geographic area designated as a metropolitan statistical area by the Director of the Office of Management and Budget.

(d) SHORTAGE OCCUPATION.—The term "shortage occupation" means an occupation that the Commissioner determines is experiencing a shortage of labor.

(i) (A) throughout the United States; or

(ii) in a specific metropolitan statistical area.

(e) W NONIMMIGRANT PROGRAM.—The term "W Visa Program" means the program for the admission of nonimmigrant aliens described in subparagraph (W)(1) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), as added by section 4702.

(f) ZONE 1 OCCUPATION.—The term "zone 1 occupation" means an occupation that requires little or no preparation and is classified as a zone 1 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of this Act; or

(ii) such Database or a successor database, as designated by the Secretary of Labor, after the date of the enactment of this Act.

(g) ZONE 2 OCCUPATION.—The term "zone 2 occupation" means an occupation that requires some preparation and is classified as a zone 2 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of this Act; or

(ii) such Database or a successor database, as designated by the Secretary of Labor, after the date of the enactment of this Act.

(h) ZONE 3 OCCUPATION.—The term "zone 3 occupation" means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of this Act; or

(ii) such Database or a successor database, as designated by the Secretary of Labor, after the date of the enactment of this Act.

(i) ZONE 4 OCCUPATION.—The term "zone 4 occupation" means an occupation that requires high preparation and is classified as a zone 4 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of this Act; or

(ii) such Database or a successor database, as designated by the Secretary of Labor, after the date of the enactment of this Act.

(j) ZONE 5 OCCUPATION.—The term "zone 5 occupation" means an occupation that requires advanced preparation and is classified as a zone 5 occupation on—

(i) the Occupational Information Network Database (O*NET) on the date of the enactment of this Act; or

(ii) such Database or a successor database, as designated by the Secretary of Labor, after the date of the enactment of this Act.

(k) ESTABLISHMENT.—There is established a Bureau of Immigration and Labor Market Research as an independent statistical agency within the U.S. Citizenship and Immigration Services.

(l) COMMISSIONER.—The head of the Bureau of Immigration and Labor Market Research
is the Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate.

(d) Duties.—The duties of the Commissioner shall be to:

(1) To devise a methodology subject to publication in the Federal Register and an opportunity for public comment regarding the calculation for the index referred to in subsection 220(g)(2)(C) of the Immigration and Nationality Act, as added by section 4703.

(2) To publish in the Federal Register the annual change to the numerical limitation for nonimmigrant aliens described in subparagraph (W)(i) of section 101(a)(15), as added by section 4702.

(3) With respect to the W Visa Program, to supplement the recruitment methods employers may use to attract United States workers and current nonimmigrant aliens described in paragraph (2).

(4) With respect to the W Visa Program, to devise a methodology subject to publication in the Federal Register and an opportunity for public comment to designate shortage occupations in zone 1 occupations, zone 2 occupations, and zone 3 occupations. Such methodology must designate Alaskan seafood processing in zones 1, 2, and 3 as shortage occupations.

(5) With respect to the W Visa Program, to designate shortage occupations in any zone 1 occupation, zone 2 occupation, or zone 3 occupation that occupies a position in the Federal Register. Alaskan seafood processing in zones 1, 2, and 3 must be designated as shortage occupations.

(6) With respect to the W Visa Program, to conduct a survey once every 3 months of the unemployment rate of zone 1 occupations, zone 2 occupations, or zone 3 occupations that are construction occupations in each metropolitan statistical area.

(7) To study and report to Congress on employment-based immigrant and nonimmigrant visa programs in the United States and to make annual recommendations to improve such programs.

(8) To carry out any functions required to perform the duties described in paragraphs (1) through (7).

(e) Determination of Changes to Numerical Limitations.—The methodology required by subsection (d)(1) shall be published in the Federal Register not later than 18 months after the date of the enactment of this Act.

(f) Designation of Shortage Occupations.—

(1) Methods to Determine.—The Commissioner shall:

(A) establish the methodology to designate shortage occupations under subsection (d)(4); and

(B) publish such methodology in the Federal Register not later than 18 months after the date of the enactment of this Act.

(2) Petition by Employer.—The methodology established under paragraph (1) shall be effective only after published in the Federal Register and an opportunity for public comment.

(g) Employee Expertise.—The employees of the Bureau, who have the expertise necessary to identify labor shortages in the United States and make recommendations to the Commissioner on the impact of immigrants—nonimmigrant aliens on labor markets in the United States, including expertise in economics, labor markets, demographics and methods of recruitment of United States workers.

(h) Interagency Cooperation.—At the request of the Commissioner, the Secretary of Labor, the Commissioner of the Bureau of the Census, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, and the Commissioner of the Bureau of Labor Statistics shall:

(1) provide data to the Commissioner;

(2) conduct appropriate surveys; and

(3) assist the Commissioner in preparing the recommendations referred to subsection (d)(5).

(i) Budget.—

(1) Report.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall submit to Congress a report that is an audit of the budget prepared by the Director under paragraph (1).

(2) Appropriation of Funds.—There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $20,000,000 to establish the Bureau.

(j) Fees.—

(1) Use of W Nonimmigrant Fees.—The amounts collected for fees under section 221(e)(6)(C) of the Immigration and Nationality Act, as added by section 4703, shall be used to establish and fund the Bureau.

(2) Other Fees.—The Secretary may establish other fees for the sole purpose of funding the W Visa Program, including the Bureau, that are related to the hiring of alien workers.

SEC. 4702. NONIMMIGRANT CLASSIFICATION FOR W NONMIGRANTS.

Section 101(a)(15)(W), as added by section 2211, is amended by inserting after clause (ii) the following:

"(iv) to perform services or labor for a registered nonagricultural employer in a registered position as those terms are defined in section 220(a) in accordance with the requirements under section 220;

(vi) to accompany or follow to join such an alien described in clause (i) as the spouse of the alien's employer.

SEC. 4703. ADMISSION OF W NONMIGRANTS WORKERS.

(a) In General.—Chapter 2 of title II (8 U.S.C. 1311 et seq.) is amended by adding at the end the following:

"SEC. 220. ADMISSION OF W NONMIGRANT WORKERS.

(1) Definition.—In this section:

(A) Bureau.—The term 'Bureau' means the Bureau of Immigration and Labor Market Research established by section 4701 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(B) Certified Alien.—The term 'certified alien' means an alien that the Secretary of State has certificated to be a W nonimmigrant if the alien is hired by a registered employer for a registered position.

(C) Commissioner.—The term 'Commissioner' means the Commissioner of the Bureau.

(D) Construction Occupation.—The term 'construction occupation' means an occupation defined by the Bureau of Labor Statistics as being within the construction industry for the purposes of publishing the Bureau's workforce statistics.

(E) Department.—Except as otherwise provided, the term 'Department' means the Department of Homeland Security.

(F) Eligible Occupation.—The term 'eligible occupation' means an occupation described in subsection (e)(3).

(G) Employer.—The term 'employer' means any person or entity hiring an individual for employment in the United States.

(H) Treatment of Single Employer.—For purposes of determining the number of employees or United States workers employed by an employer, a single entity shall be treated as 1 employer.

(I) Excluded Geographic Location.—The term 'excluded geographic location' means an excluded geographic location described in subsection (f).

(J) Initial W Nonimmigrant.—The term 'initial W nonimmigrant' means a certified alien issued a W nonimmigrant visa by the Secretary of State pursuant to section 101(a)(15)(W) for the purposes of determining the number of employees or United States workers employed by an employer, a single entity shall be treated as 1 employer.

(K) Metropolitan Statistical Area.—The term 'metropolitan statistical area' means a geographic area designated as a metropolitan statistical area by the Bureau of the Census, as added by section 4701 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(L) W Nonimmigrant.—The term 'W nonimmigrant' means an alien admitted as a nonimmigrant pursuant to section 101(a)(15)(W).

(3) Zone 1 Occupation.—The term 'zone 1 occupation' means an occupation that requires little or no preparation and is classified as a Zone 1 occupation under the National Occupation Classification System.

(A) Category I. (B) Category II. (C) Category III. (D) Category IV. (E) Category V. (F) Category VI.

(5) Zone 1 Occupation.—The term 'zone 1 occupation' means an occupation that requires little or no preparation and is classified as a Zone 1 occupation under the National Occupation Classification System.

(A) Academic Occupation.—The term 'academic occupation' means an occupation described in subsection (e)(3).

(B) Administrative Occupation.—The term 'administrative occupation' means an occupation described in subsection (e)(3).

(C) Agricultural Occupation.—The term 'agricultural occupation' means an occupation described in subsection (e)(3).

(D) Business Occupation.—The term 'business occupation' means an occupation described in subsection (e)(3).

(E) Construction Occupation.—The term 'construction occupation' means an occupation described in subsection (e)(3).

(F) Educational Occupation.—The term 'educational occupation' means an occupation described in subsection (e)(3).

(G) Health Care Occupation.—The term 'health care occupation' means an occupation described in subsection (e)(3).

(H) Commerce Occupation.—The term 'commerce occupation' means an occupation described in subsection (e)(3).

(I) Manufacturing Occupation.—The term 'manufacturing occupation' means an occupation described in subsection (e)(3).

(J) Service Occupation.—The term 'service occupation' means an occupation described in subsection (e)(3).

(K) Transportation Occupation.—The term 'transportation occupation' means an occupation described in subsection (e)(3).

(L) Utilities Occupation.—The term 'utilities occupation' means an occupation described in subsection (e)(3).

(M) Veterinary Occupation.—The term 'veterinary occupation' means an occupation described in subsection (e)(3).

(N) W Nonimmigrant Visa.—The term 'W nonimmigrant visa' means a visa issued to a certified alien by the Secretary of State pursuant to section 101(a)(15)(W).

(6) Eligible Occupation.—The term 'eligible occupation' means an occupation described in subsection (e)(3).

(7) Employer.—The term 'employer' means any person or entity hiring an individual for employment in the United States.
(2) ZONE 3 OCCUPATION.—The term "zone 3 occupation" means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

(A) the Occupational Information Network Database (O*NET) on the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; or

(B) such Database or a similar successor database, as designated by the Secretary of Labor, after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(22) ZONE 3 OCCUPATION.—The term "zone 3 occupation" means an occupation that requires medium preparation and is classified as a zone 3 occupation on—

(A) the Occupational Information Network Database (O*NET) on the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; or

(B) such Database or a similar successor database, as designated by the Secretary of Labor, after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(2) W NONIMMIGRANT STATUS.—Only an alien—

(A) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

(B) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

(1)CERTIFIED ALIEN.—

(A) APPLICATION.—An alien seeking to be a certified alien shall submit an application to the Secretary in such form and manner as the Secretary specifies, which shall include the following:

(i) T EMPORARY INELIGIBILITY.—An employer who has been convicted of any offense set out in chapter 77 of title 18, United States Code, or any conspiracy to commit such offense, or any human trafficking offense under State or territorial law shall be permanently ineligible to be a registered employer.

(ii) PERMANENT INELIGIBILITY.—An employer who has been convicted of any offense set out in chapter 77 of title 18, United States Code, or any conspiracy to commit such offense, or any human trafficking offense under State or territorial law shall be permanently ineligible to be a registered employer.

(iii) has, within 2 years prior to the date of application—

(I) received a final adjudication assessing a civil money penalty for any repeated or willful violation of the minimum wage provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206); or

(II) of any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); or

(III) of any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); or

(iv) has, within 2 years prior to the date of application, received a final adjudication for a willful violation or repeated serious violations involving injury or death—

(I) of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655); or

(II) has, within 2 years prior to the date of application, received a final adjudication for a willful violation or repeated serious violations involving injury or death—

(I) of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655); or

(II) has, within 2 years prior to the date of application, received a final adjudication for a willful violation or repeated serious violations involving injury or death—

(I) of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655); or

(II) of any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); or

(III) of any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); or

(IV) of any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654); or

(1) the actual wage level paid by the employer to other employees with similar experience and qualifications for such position; or

(2) the prevailing wage level for the occupational classification of the position in the metropolitan statistical area of the employment, as determined by the Secretary, based on the wage level at which the position was temporarily ineligible and continued to be temporarily ineligible for the period during which the position was temporarily ineligible.
stoppage occurs following submission of the application, the employer will provide notification in accordance with all applicable regulations.

(iii) The employer is not laid off and will not layoff a United States worker during the period beginning 90 days prior to and ending 90 days after the date the employer files an application for recognition of the occupation for which the W nonimmigrant is sought or hires such W nonimmigrant, unless the employer has notified such United States worker and documented the legitimate reasons that such United States worker is not qualified or available for the position.

(iiID) A United States worker is not laid off for purposes of this subparagraph if, at the time such worker's employment is terminated, such worker is not employed in the same occupation and in the same metropolitan statistical area where the registered position referred to in subclause (i) is located.

(iii) The best information available, with respect to determining the prevailing wage for a position, means—

(i) the wage level commensurate with the experience, training, and supervision required for the job based on Bureau of Labor Statistics data; or

(ii) a legitimate and recent private survey of the wages paid for such positions in the metropolitan statistical area.

(4) PERMIT.—The Secretary shall provide each applicant with a permit that includes the number and description of such employer’s approved registered positions.

(E) TERM OF REGISTRATION.—The approval of a registered position under subparagraph (A) is for a term that begins on the date of such approval and ends on the earlier of—

(i) the date the employer's status as a registered employer is terminated;

(ii) 3 years after the date of such approval; or

(iii) upon proper termination of the registered position by the employer.

(F) REGISTRY OF REGISTERED POSITIONS.—

(i) MAINTENANCE OF REGISTRY.—The Secretary shall maintain a registry of approved registered positions for which the Secretary has issued a permit under subparagraph (D).

(ii) AVAILABILITY ON WEBSITE.—The registry required by clause (i) shall be accessible on a website maintained by the Secretary.

(iii) AVAILABILITY ON STATE WORKFORCE AGENCY WEBSITES.—Each State workforce agency shall be linked to such registry and provide access to such registry through the website maintained by such agency.

(iv) CONDITIONS OF AVAILABILITY ON WEBSITE.

(i) In general.—Each approved registered position for which the Secretary has issued a permit shall be included in the registry of registered positions maintained by the Secretary and shall remain available for viewing on such registry throughout the term of registration referred to in subparagraph (E) or paragraph (5).

(ii) INDICATION OF VACANCY.—The Secretary shall maintain a registry to indicate whether each approved registered position in the registry is filled or unfilled.

(iii) REQUIREMENT FOR 90-DAY POSTING.—If a W nonimmigrant is employed in a registered position ends, either voluntarily or involuntarily, the Secretary shall ensure that such registry indicates that the registered position is unfilled for a period of 10 calendar days, unless such registered position is filled by a United States worker.

(2) REQUIREMENTS.

(A) ELIGIBLE OCCUPATION.—Each registered position shall be for a position in an eligible occupation as described in paragraph (3).

(B) RECRUITEMENT OF UNITED STATES WORKERS.—

(i) REQUIREMENTS.—A position may not be a registered position unless the registered employer—

(A) advertises the position for a period of 30 days, including the wage range, location, and advertised for in subsection (g)(4)(B)(i), carries out not less than 3 of the recruiting activities described in subparagraph (C).

(B) with the workforce agency of the State where the position will be located; and

(ii) as provided for in subsection (g)(4)(B)(i), carries out not less than 3 of the recruiting activities described in subparagraph (C).

(B) DURATION OF ADVERTISING.—The 30 day periods required by item (aa) of clause (i)(1) may occur at the same time.

(C) RECRUITING ACTIVITIES.—The recruiting activities described in this subparagraph, with respect to a position for which the employer is seeking a W nonimmigrant, shall consist of any combination of the following as defined by the Secretary of Homeland Security:

(i) Advertising such position at job fairs.

(ii) Advertising such position on the employer’s external website.

(iii) Advertising such position on job search Internet websites.

(iv) Advertising such position using presentations or postings at vocational, career technical schools, community colleges, high schools, or other educational or training sites.

(v) Posting such position with trade associations.

(vi) Utilizing a search firm to seek applicants for such position.

(vii) Advertising such position through recruitment programs with placement offices at vocational technical schools, community colleges, high schools, or other educational or training sites.

(viii) Advertising such position through advertising with local libraries, journals, or newspapers.

(ix) Seeking a candidate for such position through an employee referral program with current or former employees of the registered employer.

(x) Advertising such position on radio or television.

(xi) Advertising such position through advertising programs on websites, Internet websites, job fairs, or community events targeted to constituencies designed to increase employee diversity.

(xii) Advertising such position through career day presentations at local high schools or community organizations.

(xiii) Providing third-party training.

(xiv) Advertising such position through recruitment, educational, or other cooperative programs offered by the employer and a local economic development authority.

(xv) Advertising such position twice in the Sunday ads in the primary daily circulation newspapers that such employer determines to be appropriate to be added by the Commissioner.

(B) RETURNING W NONIMMIGRANTS.—

(i) IN GENERAL.—An eligible occupation if the registered employer, at the time of filing the application for the registered position and for a period of 30 days prior to such filling, was not an eligible occupation.

(ii) REQUIREMENTS.—No person shall be designated as a Zone 1 occupation, Zone 2 occupation, or Zone 3 occupation, on an ongoing basis on a publicly available website.

(ii) FILLING OF VACANCIES.—If a W nonimmigrant’s employment in a registered position ends, such employer may fill that vacancy—

(A) by hiring a United States worker; or

(B) by hiring a registered position for a registered employer, an extension period of 30 days, including the wage range, location, and advertised for in subsection (g)(4)(B)(i), carries out not less than 3 of the recruiting activities described in subparagraph (C).

(ii) DURATION OF ADVERTISING.—The 30 day periods required by item (aa) of clause (i)(1) may occur at the same time.

(C) RECRUITING ACTIVITIES.—The recruiting activities described in this subparagraph, with respect to a position for which the employer is seeking a W nonimmigrant, shall consist of any combination of the following as defined by the Secretary of Homeland Security:

(i) Advertising such position at job fairs.

(ii) Advertising such position on the employer’s external website.

(iii) Advertising such position on job search Internet websites.

(iv) Advertising such position using presentations or postings at vocational, career technical schools, community colleges, high schools, or other educational or training sites.

(v) Posting such position with trade associations.

(vi) Utilizing a search firm to seek applicants for such position.

(vii) Advertising such position through recruitment programs with placement offices at vocational technical schools, community colleges, high schools, or other educational or training sites.

(viii) Advertising such position through advertising with local libraries, journals, or newspapers.

(ix) Seeking a candidate for such position through an employee referral program with current or former employees of the registered employer.

(x) Advertising such position on radio or television.

(xi) Advertising such position through advertising programs on websites, Internet websites, job fairs, or community events targeted to constituencies designed to increase employee diversity.

(xii) Advertising such position through career day presentations at local high schools or community organizations.

(xiii) Providing third-party training.

(xiv) Advertising such position through recruitment, educational, or other cooperative programs offered by the employer and a local economic development authority.

(xv) Advertising such position twice in the Sunday ads in the primary daily circulation newspapers that such employer determines to be appropriate to be added by the Commissioner.

(xvi) Any other recruitment activities determined to be appropriate to be added by the Commissioner.

(B) RETURNING W NONIMMIGRANTS.—

(i) IN GENERAL.—An eligible occupation if the registered employer, at the time of filing the application for the registered position and for a period of 30 days prior to such filling, was not an eligible occupation.

(ii) REQUIREMENTS.—No person shall be designated as a Zone 1 occupation, Zone 2 occupation, or Zone 3 occupation, on an ongoing basis on a publicly available website.

(ii) FILLING OF VACANCIES.—If a W nonimmigrant’s employment in a registered position ends, such employer may fill that vacancy—

(A) by hiring a United States worker; or

(B) by hiring a registered position for a registered employer, an extension period of 30 days, including the wage range, location, and advertised for in subsection (g)(4)(B)(i), carries out not less than 3 of the recruiting activities described in subparagraph (C).

(ii) DURATION OF ADVERTISING.—The 30 day periods required by item (aa) of clause (i)(1) may occur at the same time.

(C) RECRUITING ACTIVITIES.—The recruiting activities described in this subparagraph, with respect to a position for which the employer is seeking a W nonimmigrant, shall consist of any combination of the following as defined by the Secretary of Homeland Security:

(i) Advertising such position at job fairs.

(ii) Advertising such position on the employer’s external website.

(iii) Advertising such position on job search Internet websites.

(iv) Advertising such position using presentations or postings at vocational, career technical schools, community colleges, high schools, or other educational or training sites.

(v) Posting such position with trade associations.

(vi) Utilizing a search firm to seek applicants for such position.

(vii) Advertising such position through recruitment programs with placement offices at vocational technical schools, community colleges, high schools, or other educational or training sites.

(viii) Advertising such position through advertising with local libraries, journals, or newspapers.

(ix) Seeking a candidate for such position through an employee referral program with current or former employees of the registered employer.

(x) Advertising such position on radio or television.

(xi) Advertising such position through advertising programs on websites, Internet websites, job fairs, or community events targeted to constituencies designed to increase employee diversity.

(xii) Advertising such position through career day presentations at local high schools or community organizations.

(xiii) Providing third-party training.

(xiv) Advertising such position through recruitment, educational, or other cooperative programs offered by the employer and a local economic development authority.

(xv) Advertising such position twice in the Sunday ads in the primary daily circulation newspapers that such employer determines to be appropriate to be added by the Commissioner.

(xvi) Any other recruitment activities determined to be appropriate to be added by the Commissioner.
75 percent of the employees of the registered employer are not United States workers.

"(III) A fee of $3,500 for the registered position if the registered employer, at the time of filing the application, for the registered position, is not a small business and more than 15 percent and less than 30 percent of the employees of the registered employer are not United States workers.

"(ii) USE OF FEE.—A fee collected under clause (i) shall be used to fund the operations of the Bureau.

"(C) PROHIBITION ON OTHER FEES.—A registered employer may not be required to pay an additional fee other than any fees specified in clauses (i) and (ii) of this subparagraph in connection with the registration of a position.

"(7) PROHIBITION ON REGISTERED POSITIONS FOR CERTAIN EMPLOYERS.—The Secretary may not approve an application for a registered position for an employer if the employer is not a small business and 30 percent or more of the employees of the employer are not United States workers.

"(f) EXCLUDED GEOGRAPHIC LOCATION.—No application for a registered position filed by a registered employer for an eligible occupation may be approved if the registered position is located in a metropolitan statistical area that has an unemployment rate that is more than 81/2 percent as reported in the most recent month preceding the date that the application is submitted to the Secretary unless—

"(i) the Secretary determines that such first year position is being performed; and

"(ii) either the Secretary has identified the eligible occupation as a shortage occupation; or

"(g) NUMERICAL LIMITATION.—

"(1) REGISTERED POSITIONS.—Subject to paragraphs (3) and (4), the maximum number of registered positions that may be approved by the Secretary for a year is as follows:

"(i) For the first such year, 20,000.

"(ii) For the second such year, 35,000.

"(iii) For the third such year, 55,000.

"(iv) For each year after the fourth such year, the level calculated for that year under paragraph (2).

"(B) REGULATIONS.—The first year referred to in subparagraph (A)(i) shall begin on April 1, 2015, and end on March 31, 2016, unless the Secretary determines that such first year shall begin on November 1, 2015, and end on September 30, 2016.

"(2) YEARS AFTER YEAR 4.—

"(A) CURRENT YEAR AND PRECEDING YEAR.—

In this paragraph—

"(i) the term ‘current year’ shall refer to the 12-month period for which the calculation of the numerical limits under this paragraph is being performed; and

"(ii) the term ‘preceding year’ shall refer to the 12-month period immediately preceding the current year.

"(B) ALLOCATED POSITION.—Subject to subparagraph (D), the number of registered positions that may be approved by the Secretary for a year after the fourth year referred to in paragraph (A)(i) shall be equal to the sum of—

"(i) the number of such registered positions available under this paragraph for the preceding year;

"(ii) the product of—

"(I) the number of such registered positions available under this paragraph for the preceding year; and

"(II) the index for the current year calculated under subparagraph (C);

"(C) INDEX.—The index calculated under this subparagraph for a current year equals the sum of—

"(i) one-fifth of a fraction—

"(I) the numerator of which is the number of registered positions that registered employers applied to have approved under subsection (e)(1) for the preceding year minus the number of registered positions approved under subsection (e) for the preceding year; and

"(II) the denominator of which is the number of registered positions made available under subsection (e) for the preceding year;

"(ii) one-fifth of a fraction—

"(I) the numerator of which is the number of registered positions for which the Commissioner recommends be available under this subparagraph for the current year minus the number of positions made available under this subparagraph for the preceding year;

"(II) the denominator of which is the number of registered positions available under this subparagraph for the preceding year;

"(iii) three-tenths of a fraction—

"(I) the numerator of which is the number of unemployed United States workers for the preceding year minus the number of unemployed United States workers for the current year; and

"(IV) three-tenths of a fraction—

"(I) the numerator of which is the number of W nonimmigrants entered the United States for initial employment;

"(II) the denominator of which is the number of such positions approved under subsection (e) for the preceding year;

"(III) the denominator of which is the number of W nonimmigrants employed in a registered position who entered the United States for initial employment; and

"(iv) one-fifth of a fraction—

"(I) the numerator of which is the number of such registered positions approved under subsection (e) for the preceding year; and

"(II) the denominator of which is the number of such positions approved under subsection (e) for the preceding year.

"(2) SHORTAGE OCCUPATIONS.—

"(A) FIRST 6-MONTH PERIOD.—

"(i) RECRUITMENT.—Any registered employer applying for a registered position under this subparagraph who has not designated any occupations available to registered employers for initial employment pursuant to a registered position made available under this subparagraph may not be paid less than the wages required under subsection (e)(1)(B)(iv).

"(ii) ALLOCATION OF REGISTERED POSITIONS.—

"(I) IN GENERAL.—

"(A) FIRST 6-MONTH PERIOD.—The number of registered positions available under this subparagraph for the first 6-month period beginning on the first day of a year is 50 percent of the maximum number of registered positions available for such year under paragraphs (2) and (3) of subsection (e) for the preceding year.

"(B) SECOND 6-MONTH PERIOD.—The number of registered positions available under this subparagraph for the second 6-month period ending on the last day of a year is the maximum number of registered positions available for such year under paragraphs (2) and (3) of subsection (e) for the preceding year.

"(ii) WAGES.—

"(A) INITIAL W NONIMMIGRANTS.—An initial W nonimmigrant employed in a registered position shall be paid not less than the wages required under subsection (e)(1)(B)(iv).

"(B) REDUCTION OF FUTURE REGISTERED POSITIONS.—Each registered position made available for a year subject to the wage conditions of subparagraph (C)(i) shall reduce by 25 percent the number of registered positions made available under paragraph (g)(1) for the following year or the earliest possible year for which a registered position is available. The limitation contained in subsection (h)(4) shall not be reduced by any registered position made available under this paragraph.

"(C) ALLOCATION OF REGISTERED POSITIONS.—

"(I) IN GENERAL.—

"(A) FIRST 6-MONTH PERIOD.—The number of registered positions available under this subparagraph for the first 6-month period beginning on the first day of a year is 50 percent of the maximum number of registered positions available for such year under paragraphs (2) and (3) of subsection (e) for the preceding year.

"(ii) WAGES.—

"(A) INITIAL W NONIMMIGRANTS.—An initial W nonimmigrant employed in a registered position shall be paid not less than the wages required under subsection (e)(1)(B)(iv).
small businesses during such months shall be available for any registered employer during the last 2 months of each such 6-month period.

“5” ANIMAL PRODUCTION SUBSECTORS.—In addition to the number of registered positions made available for a year under paragraph (1) or (3) of such section (g), the Secretary shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved applicant, employee, or nonimmigrant (or a person acting on behalf of such applicant, employee, or nonimmigrant) with respect to—

(1) the failure of a registered employer to meet a contract provision, or
(2) the lay off or nonhiring of a United States worker as prohibited under this section.

“6” ENFORCEMENT.—

(1) IN GENERAL.—The Secretary shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved W nonimmigrant respecting a violation of this section.

(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint under this section unless the complaint is filed not later than 6 months after the date of the violation.

(3) FEES.—

(A) IN GENERAL.—Not later than 6 months after the date of a hearing under this paragraph, the Secretary shall make a finding on the matter.

(B) ATTORNEY’S FEES.—

(A) Award.—A complainant who prevails in an action brought under this section with respect to a claim related to wages or compensation for employment, or for a claim for a violation of subsection (i) or (m), shall be entitled to an award of reasonable attorney’s fees and costs.

(B) PRELIMINARY COMPLAINTS.—A complainant who files a frivolous complaint for an improper purpose under this subsection shall be liable for the reasonable attorney’s fees and costs of the person named in the complaint.

“7” OTHER RIGHTS OF EMPLOYERS.—The rights and remedies provided to W nonimmigrants 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.

“8” PENALTY.—

(A) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary finds a violation of this section, the Secretary may impose administrative remedies and penalties, including—

(A) back wages; and
(B) civil monetary penalties.

(B) CIVIL PENALTIES.—The Secretary may impose, as a civil penalty—

(A) a fine in an amount not more than $2,000 per violation per affected worker and $4,000 per violation for each subsequent violation; or
(B) for knowingly failing to materially comply with the terms of representations made in petitions, applications, certifications, or attestations under this section—

(i) a fine in an amount not more than $4,000 per aggrieved worker; and
(ii) upon the occasion of a third offense of failure to comply with representations, a fine in an amount not to exceed $5,000 per affected worker provided that the person committed to the performance of the representations made in petitions, applications, certifications, or attestations under this section.

(C) CRIMINAL PENALTY.—Any person who knowingly misrepresents the number of full-time equivalent employees of an employer or the number of employees of a person who are United States workers for the purpose of reducing a fee under subsection (e)(6) or avoiding the limitation in subsection (e)(7), shall be fined in accordance with title 18, United States Code, in an amount up to $25,000 or imprisoned not more than 1 year, or both.

“9” MONITORING.—The Secretary shall monitor the movement of W nonimmigrants in registered positions through—

(A) for a violation of this subsection—

(i) a fine in an amount not more than $2,000 per violation per affected worker and $4,000 per violation per affected worker for each subsequent violation; or
(ii) if the violation was willful, a fine in an amount not more than $5,000 per violation per affected worker; or
(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 more than $25,000 per violation per affected worker; or
(B) for knowingly failing to materially comply with the terms of representations made in petitions, applications, certifications, or attestations under this section—

(i) a fine in an amount not more than $4,000 per aggrieved worker; and
(ii) upon the occasion of a third offense of failure to comply with representations, a fine in an amount not to exceed $5,000 per affected worker provided that the person committed to the performance of the representations made in petitions, applications, certifications, or attestations under this section.

(C) CRIMINAL PENALTY.—Any person who knowingly misrepresents the number of full-time equivalent employees of an employer or the number of employees of a person who are United States workers for the purpose of reducing a fee under subsection (e)(6) or avoiding the limitation in subsection (e)(7), shall be fined in accordance with title 18, United States Code, in an amount up to $25,000 or imprisoned not more than 1 year, or both.

“10” MONITORING.—The Secretary shall monitor the movement of W nonimmigrants in registered positions through—
"(A) the Employment Verification System described in section 274A(a); and

"(B) the electronic monitoring system described in paragraph (2)."

(2) ELECTRONIC MONITORING SYSTEM.—

"(A) REQUIREMENT FOR SYSTEM.—The Secretary, through U.S. Citizenship and Immigration Services, shall implement an electronic monitoring system to monitor the presence and employment of W nonimmigrants, including a requirement that registered employers update the system when W nonimmigrants begin and end employment in registered positions.

"(B) SYSTEM DESCRIPTION.—Such system shall be modeled on the Student and Exchange Visitor Information System (SEVIS) and SEVIS II tracking system of U.S. Immigration and Customs Enforcement.

(3) INTERACTION WITH REGISTRY.—Such system shall interact with the registry referred to in subsection (a)(1)(F) to ensure that the Secretary designates and updates approved registered positions as being filled or unfilled.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section (8 U.S.C. 1151 et seq.) is amended by adding after the item relating to section 219 the following:

"Sec. 220. Admission of W nonimmigrant workers."
successor regulation, investing in the funds owned by such individual or organized group in a qualified entrepreneur's United States business entity;

"(II) if an individual, is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(bb) if an organized group or legal entity, a majority of the individuals investing through such group or entity are citizens of the United States or aliens lawfully admitted for permanent residence; and

"(III) the individual or group or entity has made qualified investments in a total amount determined to be appropriate by the Secretary, by section 2510.3–101(d) (or successor regulation), in United States business entities which are less than 5 years old.

"(viii) QUALIFIED VENTURE CAPITALIST.—

The term ‘qualified venture capitalist’ means an entity—

"(I) that—

"(aa) is a venture capital operating company (as defined in section 2510.3–101(d) of title 29, Code of Federal Regulations (or any successor to such regulation)); or

"(bb) has management rights, as defined in, and is owned under by, such section 2510.3–101(d) (or successor regulation), in its portfolio companies;

"(II) that has capital commitments of not less than $50,000,000;

"(III) the investment adviser, that is registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–3(c); or section 203(b)(6) of the Immigration and Nationality Act, as added by section 4802, section 101(a)(15)(X) of such Act, as added by section 4801, or section 214(s), as added by section 4801.

"(A) AUTOMATIC ADJUSTMENT.—Unless a dollar amount referred to in paragraph (1) is adjusted by the Secretary under this subsection, such dollar amount shall automatically adjust on January 1, 2016, by the percentage change in the Consumer Price Index (CPI–U) during fiscal year 2015, and on every fifth subsequent January 1 by the percentage change in the CPI–U during the previous 5 fiscal years, for any petition filed to classify an alien under this paragraph that is pending on the date of each automatic adjustment.

(c) OTHER AUTHORITY.—The Secretary, in the Secretary's unreviewable discretion, may deny or revoke the petition seeking classification of an alien under paragraph (6) of section 203(b) of the Immigration and Nationality Act, as added by this subtitle, or any other petition, application, or benefit based upon the previous or concurrent filing or approval of a petition for classification of an alien under such paragraph (6), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that the approval or continuation of such petition, application, or benefit is contrary to the national interest of the United States or for other good cause.

(d) REPORTS.—Once every 3 years, the Secretary shall submit to Congress a report on this subtitle and the amendments made by this subtitle. Such each report shall include—

"(1) the number and percentage of entrepreneurs able to meet thresholds for non-immigrant renewal and adjustment to green card status under the amendments made by this subtitle; and

"(2) an analysis of the program's economic impact including job and revenue creation, increased investments and growth within business sectors and regions;

"(3) a description and breakdown of types of businesses that entrepreneurs granted non-immigrant or immigrant status are creating; and

"(4) for each report following the Secretary's initial report submitted under this subsection, a description of the percentage of the businesses initially created by the entrepreneurs granted non-immigrant or non-immigrant status under this subtitle and the amendments made by this subtitle, that are still in operation; and

any recommendations for improving the program established by this subtitle and the amendments made by this subtitle.

SEC. 4801. PERMANENT AUTHORIZATION OF EB-5 REGIONAL CENTER PROGRAM.

(a) REPEAL.—Section 610 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is repealed.

(b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

"(E) REGIONAL CENTER PROGRAM.—

"(1) IN GENERAL.—Visas under this paragraph shall be made available to or on behalf of green card applicants participating in a program implementing this paragraph that involves a
regional center in the United States, which has been designated by the Secretary of Homeland Security, in consultation with the Secretary of Commerce, on the basis of a general proposal for the promotion of economic growth, including—

"(i) increased export sales; 
(ii) improved regional productivity; 
(iii) increased domestic capital investment; 
(iv) increased domestic capital investment resulting from the program, including jobs created outside of the geographic boundary of the regional center as a result of the immigrant’s investment in regional center-affiliated commercial enterprises. 

"(v) INDIRECT JOB CREATION.—The Secretary shall permit immigrants admitted under this subparagraph to create indirect jobs, including jobs created outside of the geographic boundary of the regional center as a result of the immigrant’s investment in regional center-affiliated commercial enterprises. 

"(vi) PREAPPROVAL OF BUSINESS PLANS FOR REGIONAL CENTER INVESTMENTS.—(I) IN GENERAL.—The Secretary shall preapprove a particular investment in a commercial enterprise that has received financial statement required under clause (i), that such statements are accurate. 

"(ii) AMENDMENT OF FINANCIAL STATEMENT.—The Secretary may establish a process to facilitate the preapproval of business plans under this subparagraph related to investment in a regional center commercial enterprise, which shall include an opportunity for the applicant to address and cure any deficiencies identified by the Secretary in the applicant’s business plan and financial statement. 

"(iii) EFFECT OF PREAPPROVAL OF BUSINESS PLAN FOR INVESTMENT IN REGIONAL CENTER COMMERCIAL ENTERPRISE.—The preapproval of a petition under this subparagraph shall be binding for purposes of the adjudication of petitions filed under this subparagraph by immigrants investing in the commercial enterprise unless the Secretary determines that there is evidence of fraud, misrepresentation, criminal activity, national security, or other evidence affecting program eligibility that was not disclosed by the petitioner during the preapproval process. 

"(iv) EXPEDITED PROCESSING OPTION FOR ALIEN INVESTOR PETITIONS AFFILIATED WITH PREAPPROVED BUSINESS PLANS.—The Secretary may establish a process to facilitate the preapproval of business plans under this subparagraph and may impose a fee for the use of that option sufficient to recover all costs of the option. 

"(v) CONSIDERATION OF CRIMINAL ACTIVITY IN ESTABLISHING ELIGIBILITY CRITERIA.—The Secretary shall consider the potential for fraud, misrepresentation, criminal misuse, and threats to national security in establishing eligibility criteria for any program the Secretary may establish under this subparagraph. 

"(G) REGIONAL CENTER FINANCIAL STATEMENTS.—

"(I) IN GENERAL.—Each regional center designated under subparagraph (E) shall annually submit, to the Director of U.S. Citizenship and Immigration Services (referred to in this subparagraph as the ‘Director’), in a manner prescribed by the Secretary of Homeland Security, financial statements, including—

"(aa) an accounting of all foreign investor money invested through the regional center; and 
(bb) a description of how such funds are being used to execute the approved business plan; 
(cc) evidence that 100 percent of such investor funds have been dedicated to the regional center; and 
(dd) detailed evidence of the progress made toward the completion of the project; 
(II) EFFECT OF VIOLATION.—If the Director determines, after reviewing the financial statements submitted under clause (i), that a regional center, director, or other individual involved with a regional center (other than an alien investor) has violated any requirement of this subparagraph, the Director may require the regional center to amend or supplement such financial statement. 

"(III) SANCTIONS.—

"(a) EFFECT OF VIOLATION.—If the Director determines, after reviewing the financial statements submitted under clause (i), that a regional center, director, or other individual involved with a regional center (other than an alien investor) has violated any requirement of this subparagraph, the Director may require the regional center to amend or supplement such financial statement. 

"(b) AUTHORIZED SANCTIONS.—The Director shall establish a graduated set of sanctions for violations referred to in subclause (I), including—

"(aa) fines equal to not more than 5 percent of the total capital invested by immigrant investors in the commercial enterprise; 
(bb) temporary suspension from participation in the program described in subparagraph (E), which may be lifted by the Director if the regional center demonstrates that the alleged violation after being provided such an opportunity by the Director; 
(cc) permanent bar from program participation for 1 or more individuals affiliated with the regional center; and 
(dd) termination of regional center status. 

"(H) BONA FIDES OF PERSONS INVOLVED IN REGIONAL CENTERS.—

"(I) IN GENERAL.—No person shall be permitted to any regional center involved with the regional center as its principal, representative, administrator, owner, officer, board member, manager, executive, general partner, fiduciary, marketer, promoter, or any other similar position of substantive authority for the operations, management or promotion of the regional center if the Secretary of Homeland Security—

"(ii) determines such person has been found liable within the previous 5 years for any criminal or civil violation of any law relating to fraud or deceit, or at any time if such violation involved a criminal conviction with a term of imprisonment of at least 1 year or a criminal or civil violation of any law or agency regulation in connection with the purchase or sale of a security; or 
(iii) knows or has reasonable cause to believe that the person has ever been engaged in, or seeks to engage in any—

"(aa) illicit trafficking in any controlled substance; 
(bb) activity relating to espionage or sabotage; 
(cc) activity related to money laundering (as described in section 1956 or 1957 of title 18, United States Code); 
(dd) terrorist activity (as defined in clauses (ii) and (iv) of section 212(a)(3)(B)); 
(ee) human trafficking or human rights offenses; or 
(ff) violation of any statute, regulation, or Executive Order regarding foreign financial transactions or foreign asset control. 

"(II) INFORMATION REQUIRED.—The Secretary shall require such attestations and information, including, the submission of fingerprints to the Federal Bureau of Investigation, and shall perform such criminal record checks and other background checks with respect to a regional center, and persons involved in a regional center as described in clause (i), as the Secretary considers appropriate to determine whether the regional center is in compliance with clause (i). The Secretary may require the information and attestations described in this clause from such regional center, and any person involved with the regional center, at any time on or after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act. 

"(III) TERMINATION.—The Secretary is authorized, in his or her unreviewable discretion, to terminate any regional center from the program under this paragraph if he or she determines that—

"(I) the regional center is in violation of clause (i); 
(II) the regional center or any person involved with the regional center is engaged in any false statement or any false representation as provided any false certification or any false statement; or 
(III) the regional center or any person involved with the regional center is engaged in fraud, misrepresentation, criminal misuse, or threats to national security. 

"(D) REGIONAL CENTER COMPLIANCE WITH SECURITIES LAWS.—

"(I) CERTIFICATION REQUIRED.—The Secretary of Homeland Security shall not approve an application for regional center designation or extend the designation of a regional center unless the Secretary of Homeland Security determines that the regional center has established and is using policies and procedures that are sufficient to ensure compliance with all applicable laws, rules, and regulations regarding the purchase or sale of securities.
parties to the regional center are in, and will maintain, compliance with the securities laws of the United States.

(11) TERMINATION OR SUSPENSION.—The Secretary may denounce the designation of any regional center that does not provide the certification described in clause (i) on an annual basis. In addition to any other authority provided to the Secretary respecting any regional center program described in subsection (E) of this section, the Secretary may, in his or her unreviewable discretion, suspend or terminate the designation of any regional center if he or she determines that the regional center or any party to the regional center—

(I) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction in connection with the sale or purchase of a security; or

(II) is subject to any final order of the Securities and Exchange Commission that—

(aa) bars such person from association with an entity regulated by the Securities and Exchange Commission; or

(bb) constitutes a final order based on violations in connection with the purchase or sale of a security; or

(III) knowingly submitted or caused to be submitted a certification described in clause (i) that contained an untrue statement of a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not materially misleading.

(12) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to impair or limit the authority of the Securities and Exchange Commission under the Federal securities laws.

(13) DEFINED TERM.—For the purpose of this section, the term ‘regional center’ shall include the regional center, its agents, employees, and attorneys, and any persons in active concert or participation with the regional center.

(14) DENIAL OR REVOCATION.—If the Secretary of Homeland Security, in his or her unreviewable discretion, determines that the approval of a petition, application, or benefit described in this subparagraph is contrary to the national interest of the United States for reasons relating to fraud, misrepresented claims, discrimination based on national security, or coercion, the Secretary may deny or revoke the approval of—

(i) a petition seeking classification of an alien as an alien investor under this paragraph;

(ii) a petition to remove conditions under section 216A before granting lawful permanent resident status or any other petition, application, or benefit based upon the previous or concurrent filing or approval of a petition for classification of an alien under this paragraph;

(iii) a petition for designation as a regional center.

(c) ELIGIBILITY FOR IMMIGRATION Services.—

(1) IN GENERAL.—The Secretary of Commerce, upon the request of the Secretary, shall provide consultation assistance for determining whether—

(A) a proposed regional center should be designated, terminated, or subject to other adjudications.

(B) a petitioner or applicant for a benefit under section 203(b)(5) of the Immigration and Nationality Act, as amended by subsection (A), has met the requirements under such paragraph with respect to job creation.

(2) RULEMAKING.—The Secretary and the Secretary of Commerce may each adopt such rules as are necessary to carry out the consultation process provided for in paragraph (1).

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to require consultation with the Secretary of Commerce to continue the designation of a regional center approved before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall be effective upon the enactment of this Act; and

(2) shall apply to—

(A) any application to designate a regional center, and any person involved with the regional center, that is pending or approved on or after the date of the enactment of this Act; or

(B) any regional center approved before the date of the enactment of this Act, on or after a delayed effective date that is 1 year after such date of enactment with respect to any person involved in the regional center on or after such delayed effective date.

SEC. 202. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN EMPLOYMENT-BASED IMMIGRANTS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—Section 216A (8 U.S.C. 1186b) is amended to read as follows:

(1) ALIEN INVESTOR.—In the case of an alien investor—

(I) who is a specified investor (as defined in section 216A of the Immigration and Nationality Act, as amended by subsection (c)(6)) and any persons in active concert or participation with such alien investor—

(aa) maintains, in the light of the circumstances of any regional center or any party to the regional center under subsection (a), that such alien investor and any persons in active concert or participation with such alien investor—

(bb) constitute a final order based on violations of securities laws, or

(cc) bars such person from association with an entity regulated by the Securities and Exchange Commission respecting such facts and information.

Any alien whose permanent resident status is terminated under paragraph (1) or (2) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Secretary of Homeland Security to establish, by a preponderance of the evidence, that a condition described in paragraph (1) or (2), as appropriate, is met.

(b) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.

(1) IN GENERAL.—

(A) PETITION AND INTERVIEW.—In order for the employment-based basis established under subsection (a) for an employment-based immigrant, alien spouse, or alien child to be removed—

(i) the employment-based immigrant shall submit to the Secretary of Homeland Security, during the period described in subsection (d)(3), a petition which requests the removal of such conditional basis for any state, under penalty of perjury, the facts and information described in paragraph (1) or (2) of subsection (d), as appropriate; and

(ii) in accordance with subsection (d)(3), the employment-based immigrant must appear for a personal interview before an officer or employee of U.S. Citizenship and Immigration Services respecting such facts and information.

(B) SEPARATE PETITION NOT REQUIRED.—An alien spouse or alien child shall not be required to file a separate petition in order for the employment-based immigrant's petition includes such alien spouse or alien child.

(c) EFFECT ON SPOUSE OR CHILD.—If the alien spouse or alien child obtains permanent resident status on a conditional basis after the employment-based immigrant files a petition under paragraph (A)(i) that the employment-based immigrant's petition is approved under this subsection—

(i) the conditional basis of the permanent resident status of the alien spouse or alien child shall be removed upon approval of the employment-based immigrant's petition under this subsection;

(ii) the permanent resident status of the alien spouse or alien child shall be unconditional if—

(i) the employment-based immigrant's petition is approved before the date on which
the spouse or child obtains permanent residence; or

(ii) the employment-based immigrant dies after the approval of a petition under section 203(b)(5).

(iii) the alien child shall not be deemed ineligible for approval under section 233(b)(5) or removal of conditions under this section if the alien child reaches 21 years of age during—

(I) the pendency of the employment-based immigrant’s petition under section 203(b)(5); or

(II) conditional residency under such section.

(B) ADDITIONAL FEE.—Notwithstanding any other provision under this section, the Secretary may require the employment-based immigrant to pay an additional fee for a petition under subsection (A) that includes the alien’s spouse and child or alien’s lawful admission for permanent residence filed by an alien investor that such facts and information are true, the Secretary shall so notify the alien investor and the Secretary shall terminate the permanent resident status of an employment-based immigrant, alien spouse, or alien child as of the date of the notice.

(D) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a subpart-subparagraph in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Secretary of Homeland Security to establish, by a preponderance of the evidence, that the facts and information described in subpart (d)(1) and alleged in the petition are not true.

(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under section 203(b)(5), if—

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A); or

(ii) unless there is good cause shown, the employment-based immigrant fails to appear at the interview described in paragraph (1)(B), if required in subsection (d)(4)(A), then the Secretary of Homeland Security shall terminate the permanent resident status of the alien (and the alien’s spouse and children if it was obtained on a conditional basis under this section or section 216(b) as of the second anniversary of the alien’s lawful admission for permanent residence.

(B) REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

(A) IN GENERAL.—If—

(i) a petition is filed in accordance with the provisions of paragraph (1)(A); and

(ii) the employment-based immigrant appears at any interview described in paragraph (1)(B), the Secretary of Homeland Security shall make a determination, not later than 90 days after the date of such filing or interview (whichever is later), as to whether the facts and information described in paragraph (1)(B) and (1)(C) are true, that the alien is conforming to the requirements of section 203(b)(5).

(ii) if the alien has had the conditional basis removed pursuant to this section (c)(1)(A) and (1)(B), the petition under subsection (c)(1)(A) shall contain facts and information demonstrating that the alien—

(A)(i) invested, or is actively in the process of investing, the requisite capital; and

(ii) sustained the actions described in clause (i) throughout the period of the alien’s residence in the United States; and

(B) except as provided in paragraph (4), is otherwise conforming to the requirements under section 203(b)(5).

(2) CONTENTS OF PETITION BY EMPLOYEE OF A FEDERAL NATIONAL SECURITY, SCIENCE, AND TECHNOLOGY LABORATORY, CENTER, OR AGENCY.—Each petition under subsection (c)(1)(A) filed by an employee of a Federal national security, science, and technology laboratory, center, or agency shall contain facts and information demonstrating that the alien is conforming to the requirements of section 203(b)(2).

(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

(A) 90-DAY PERIOD BEFORE ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed as follows:

(i) In the case of an alien investor, during the 90-day period before the second anniversary of the alien’s lawful admission for permanent residence.

(ii) In the case of an employee of a Federal national security, science, and technology laboratory, center, or agency, during the 90-day period before the anniversary of the alien’s lawful admission for permanent residence.

(B) LATE PETITIONS.—Such a petition may be considered filed after such date, but only if the alien establishes to the satisfaction of the Secretary of Homeland Security good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

(4) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of U.S. Citizenship and Immigration Services operated by the Secretary of Homeland Security, which is convenient to the parties involved. The Secretary, in the discretion of the Secretary, may waive the requirements of this paragraph for an employment-based immigrant for such an interview in such cases as may be appropriate.

(5) SPECIAL RULE FOR ALIEN INVESTORS IN A REGIONAL CENTER.—Each petition under subsection (c)(1)(A) filed by an alien investor who invests in accordance with section 203(b)(5) may be appropriate.

(6) TREATMENT OF PERIOD FOR PURPOSES OF DISCRETIONAL REMOVAL.—For purposes of title III, 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, if the alien has had the conditional basis removed pursuant to this section.

(7) FRAUD, MISREPRESENTATION, CRIMINAL MISUSE, OR THREATS TO NATIONAL SECURITY.—If the Secretary of Homeland Security determines, in his or her sole and unreviewable discretion, that the conditional permanent resident status granted to an employment-based immigrant under subsection (a), or to an alien researcher described in section 203(b)(2)(A)(ii) is contrary to the national interest of the United States for reasons relating to fraud, misrepresentation, criminal misuse, or threats to national security, the Secretary shall—

(i) notify the immigrant involved of such determination; and

(ii) terminate the permanent resident status of the immigrant involved (and the alien spouse and alien children of such immigrant) as of the date of such determination.

(8) DEFINITIONS.—In this section:

(i) the term ‘alien investor’ means an alien who obtains the status of an alien lawfully admitted for permanent residence

(ii) the term ‘commercial enterprise’ includes a limited partnership

(iii) the term ‘employment-based immigrant’ means an alien described in paragraph (1) or (5)

(iv) the term ‘employee of a Federal national security, science, and technology laboratory, center, or agency’ means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien investor or an employee of a Federal national security, science, and technology laboratory, center, or agency.

(v) the term ‘commercial enterprise’ includes a limited partnership

(vi) the term ‘employment-based immigrant’ means an alien described in paragraph (1) or (5)

(vii) the term ‘employee of a Federal national security, science, and technology laboratory, center, or agency’ means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(5).

(b) CONFORMING AMENDMENT.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting before the period the following: ‘‘if the alien has had the conditional basis removed pursuant to this section’’.

(c) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 216A and inserting the following:

‘‘Sec. 216A. Conditional permanent resident status for employment-based immigrants, spouses, and children.’’.
SEC. 4001. EB-5 VISA REFORMS.

(a) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATION.—Section 201(b)(1) (8 U.S.C. 1153(b)(1)), as amended by sections 218C(c)(2), 222(f)(7)(C), and 222(f)(7)(D), is further amended by striking at the end of the section any provision amending by adding at the end the following:

“(P) Aliens who are the spouse or a child of an alien admitted as an employment-based immigrant under section 203(b)(5).”

(b) TECHNICAL AMENDMENT.—Section 203(b)(5), as amended by this Act, is further amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

(c) TARGETED EMPLOYMENT AREAS.—

(1) IN GENERAL.—Not fewer than 5,000 of the visas made available under this paragraph in each fiscal year shall be reserved for qualified immigrants who invest in a new commercial enterprise described in subparagraph (A), which—

“(i) is investing such capital in a targeted employment area; and

“(ii) is not the employment in such targeted employment area.

(2) DURATION OF HIGH UNEMPLOYMENT AND POVERTY AREA DESIGNATION.—A designation of a high unemployment or poverty area as a targeted employment area shall be valid for 5 years and may be renewed for additional 5-year periods if the area continues to meet the definition of a high unemployment or poverty area. An investor who has made the required amount of investment in such a targeted employment area during its period of designation shall not be required to increase the amount of investment based upon expiration of the designation.”

(d) ADJUSTMENT OF MINIMUM EB-5 INVESTMENT AMOUNT.—Section 203(b)(5)(B)(1) (8 U.S.C. 1153(b)(5)(B)(1)) is amended—

(1) by striking “The Attorney General” and inserting “The Secretary of Commerce”;

(2) by striking “Secretary of Commerce” and inserting “Secretary of Homeland Security”; and

(3) by adding at the end the following:

“Unless otherwise adjusted by the Secretary of Commerce, the amount specified in this clause shall automatically adjust, on January 1, 2016, by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the 12-month period ending the most recent decennial census of the United States, and,

3. The Secretary of Commerce, in consultation with appropriate Federal agencies, including the Department of Housing and Urban Development, the Department of Treasury, the Department of Labor, the Department of Education, and the Department of Agriculture, shall determine the amount specified in this clause, with an adjustment for the CPI-U from the date the amount is determined under subsection (a) and the subsequent petition is filed by the principal alien for the purpose of a subsequent petition under section 216A, shall be considered to be properly filed if the alien remains unmarried and the subsequent petition is filed by the principal alien not later than 1 year after the date of the enactment of this Act.

(f) AGE DETERMINATION FOR CHILDREN OF ALIEN INVESTORS.—Section 203(h) (8 U.S.C. 1153(b)) is amended by adding at the end the following:

“(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATION.—Section 201(b)(1) (8 U.S.C. 1153(b)(1)), as amended by sections 2103(c)(2), 2212(d)(2), 2307(b), and 2402, is further amended—

(1) in subsection (k), in the matter preceding paragraph (1), by striking “or (3)” and inserting “(3), (5), or (7)”;

(2) in subsection (k), in the matter preceding paragraph (1), by striking “or (3)” and inserting “(3), (5), or (7)”;

(3) by adding at the end the following:

“(c) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATION.—Section 201(b)(1) (8 U.S.C. 1153(b)(1)), as amended by sections 2103(c)(2), 2212(d)(2), 2307(b), and 2402, is further amended—

(1) by striking “Secretary of State” and in-
religious institutions) for purposes of section 101(a)(15)(F) if—

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

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

“(4) Subject to the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, a candidate for accreditation or, after such date, has been a candidate for accreditation for at least 1 year and continues to progress toward accreditation by an accreditation agency recognized by the Secretary of Education.

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

Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended—

(1) in subsection (c)(1)—

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

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

(2) in subsection (d)(2), by striking “fails to provide the specified information” and all that follows and inserting “does not comply with the reporting requirements set forth in this section, the Secretary of Homeland Security may—

“(A) impose a monetary fine on such institution in an amount to be determined by the Secretary; and

“(B) suspend the authority of such institution to issue a Form I–20 to any alien.”.

SEC. 4907. VISA FRAUD.

(a) IMMEDIATE WITHDRAWAL OF SEVP CERTIFICATION.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is amended—

(1) in paragraph (1)(A), by striking “institution,” inserting “institution,”; and

(2) by adding at the end following:

“(3) EFFECT OF REASONABLE SUSPICION OF FRAUD.—If the Secretary of Homeland Security has reasonable suspicion that an officer of, or a designated school official at, an approved institution of higher education, an other than an educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program, or if such officer or designated school official is indicted for such fraud, the Secretary may immediately—

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

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

(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by subsection (a), is further amended by adding at the end following:

“(5) PERMANENT DISQUALIFICATION FOR FRAUD.—If an officer of, or an approved institution of higher education, an other than an educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud, to any aspect of the Student and Exchange Visitor Program shall be permanently dis-
(3) LOCAL WORKFORCE INVESTMENT BOARD.—The term "local workforce investment board" means such board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2812), which board shall be known as the Young Workforce Investment Fund.

(4) LOW-INCOME YOUTH.—The term "low-income youth" means an individual who—

(A) is not younger than 16 but is younger than 25;

(B) meets the definition of a low-income individual provided in section 101(25) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(25)); or

(C) is in one or more of the categories specified in section 101(13)(C) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(13)(C)).

(5) POVERTY LINE.—The term "poverty line" means a poverty line as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9002), applicable to a family of the size involved.

(6) STATE.—The term "State" means each of the several States of the United States, and the District of Columbia.

SEC. 5102. ESTABLISHMENT OF YOUTH JOBS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the Young Workforce Investment Fund (referred to in this title as "the Fund").

(b) DEPOSITS INTO THE FUND.—Out of any amounts in the Treasury that are not otherwise appropriated, there is appropriated $1,500,000,000 for fiscal year 2013, which shall be paid into, and be available for expenditure by, the Secretary of Labor to carry out this title.

(c) AVAILABILITY OF FUNDS.—Of the amounts deposited into the Fund under subsection (b), the Secretary of Labor shall allocate $1,500,000,000 to provide summer and year-round employment opportunities to low-income youth in accordance with section 5103.

(d) PERIOD OF AVAILABILITY.—Of the amounts assigned to the State under subsection (c), the Secretary of Labor shall assign to each State an amount equal to 1/2 of 1 percent of such funds.

(e) BUDGETARY TREATMENT.—The Secretary of Labor shall assign the remainder of the funds described in subsection (c) to the States in accordance with their needs, as determined by the Secretary, in an equitable manner to carry out this title.

SEC. 5103. ESTABLISHMENT OF YOUTH JOBS AND EDUCATION PROGRAMS.

(a) IN GENERAL.—From the funds available under section 5102(c), the Secretary of Labor shall make an allotment under subsection (c) to each State that has a modification to a State plan approved under section 112 of the Workforce Investment Act of 1998 (29 U.S.C. 2833) (referred to individually in this section as a "local plan modification"), or, with respect to such State, a description of the strategies and activities to be carried out to provide summer employment opportunities to low-income youth, consistent with section 5104(a), for summer employment opportunities and year-round employment opportunities, including linkages to educational activities, which requirements may include criteria to target assistance to particular categories of such low-income youth, such as youth with disabilities, consistent with subsection (f).

(b) A description of the performance outcomes to be achieved by the State through the activities carried out under this section and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes and with section 5104(b);

(c) A description of the timelines for implementation of the strategies and activities described in subparagraph (A), and the number of low-income youth who will be placed in summer employment opportunities, and year-round employment opportunities, respectively, by quarter;

(d) Assurances that the State will report such information, relating to fiscal, performance, and other matters, as the Secretary may require and that such information is necessary to effectively monitor the activities carried out under this section;

(e) A description of the requirements the State will apply relating to the eligibility of such low-income youth, such as youth with disabilities, consistent with subsection (f);

(f) A description of the timelines for implementation of the strategies and activities described in subparagraph (A), and the number of low-income youth that will be placed in summer employment opportunities, and year-round employment opportunities, respectively, by quarter;

(g) Assurances that the State will ensure compliance with the requirements, restrictions, labor standards, and other provisions described in section 5106(a), and

(h) If a local board and chief elected official in the State will provide employment opportunities with the link to training and educational activities described in subsection (f)(2)(B), a description of how the requirements described in the paragraph will lead to the industry-recognized credential involved.

(2) SUBMISSION AND APPROVAL OF STATE PLAN MODIFICATION OR REQUEST.—

(A) SUBMISSION.—The Governor shall submit the State plan modification or other State request for funds specified in guidance under subsection (b) to the Secretary of Labor not later than 30 days after the issuance of such guidance.

(B) STATE PLAN MODIFICATION.—The Secretary of Labor shall approve the State plan modification or the State request submitted under subparagraph (A) within 30 days after submission, unless the request is inconsistent with the requirements of this section.

(C) MODIFICATIONS TO STATE PLAN OR REQUEST.—The Secretary of Labor shall make a determination within that 30-day period, the plan or request shall be considered to be approved.

(D) MODIFICATIONS TO STATE PLAN OR REQUEST.—The Governor may submit further modifications to a State plan modification or other State request submitted under subsection (b), consistent with the requirements of this section.
workforce investment areas.

(1) IN GENERAL.—Of the funds allotted to the State under subsection (c), the Governor—

(A) may reserve not more than 5 percent of the funds for administration and technical assistance; and

(B) shall allocate the remainder of the funds among local workforce investment areas within the State in accordance with clause (i) through (iii) of subsection (c)(2)(B), for purposes of making allocation references to a State in subsection (c)(2)(B) shall be deemed to be references to a local workforce investment area as determined by the Governor.

(2) LOCAL PLAN.—The Governor—

(A) shall submit a local plan for the funds to the Secretary of Labor in accordance with subsection (c)(2)(A), specifying the local workforce investment area or areas within the State in accordance with subsection (c)(2)(B), except that for purposes of such allocation references to a State in subsection (c)(2)(B), shall be deemed to be references to all local workforce investment areas in the State involved.

(B) SUBMISSION.—In order to receive an allocation under paragraph (1)(B), the local workforce investment board, in partnership with the chief elected official for the local workforce investment area involved, shall submit to the Governor a local plan modification, or such other request for funds by the Governor.

(C) APPROVAL.—The Governor shall submit the local plan modification or such other request for funds specified in guidance under subsection (b), not later than 30 days after the submission by the State of the State plan modification or other request for funds specified in guidance under subsection (b), describing the strategies and activities to be carried out under this section.

(3) REALLOCATION.—If a local workforce investment board and chief elected official do not make an approval modification for other local request for funds specified in guidance under subsection (b) by the date specified in paragraph (2), or the Governor disapproves a local request for funds submitted under subsection (c)(2)(B), such funds shall be reallocated to the local workforce investment area or areas within the State in accordance with subsection (c)(2)(B), except that for purposes of such allocation references to a State in subsection (c)(2)(B), shall be deemed to be references to all local workforce investment areas in the State involved.

(4) USE OF FUNDS.—(A) The funds made available under this section shall be used—

(i) in improving or in-demand occupations in the local workforce investment area;

(ii) in the nonprofit sector and meet community needs; and

(B) linking participants in year-round employment opportunities to training and educational activities that will provide participants an industry-recognized certificate or credential (referred to in this title as an “industry-recognized credential”).

(C) ADMINISTRATION.—A minimum of 5 percent of the funds allocated to a local workforce investment area under this section may be used for the costs of administration of this section.

(5) PERFORMANCE ACCOUNTABILITY.—For activities funded under this section, in lieu of meeting the requirements described in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2871), States and local workforce investment areas shall provide such reports as the Secretary of Labor may require regarding the performance outcomes described in section 5104(b)(5).

SEC. 5104. GENERAL REQUIREMENTS.

(a) LABOR STANDARDS AND PROTECTIONS.—Activities made available under this title shall be subject to the requirements and restrictions, including the labor standards, described in section 181 of the Workforce Investment Act of 1998 (29 U.S.C. 2931) and the nondiscrimination provisions of section 188 of such Act (29 U.S.C. 2936), in addition to other applicable Federal laws.

(b) REPORTING.—The Secretary of Labor may require the reporting of information relating to fiscal, performance, and other matters that the Secretary determines is necessary to effectively monitor the activities carried out with funds provided under this title. At a minimum, recipients of grants (including recipients of subgrants) under this title shall provide information relating to—

(1) the number of individuals participating in activities with funds provided under this title and the number of such individuals who have completed such participation;

(2) the expenditures of funds provided under this title;

(3) the number of jobs created pursuant to the activities carried out under this title;

(4) the demographic characteristics of individuals participating in activities under this title;

(5) the performance outcomes for individuals participating in activities under this title, including—

(A) for low-income youth participating in summer employment activities under section 5103, performance on indicators consisting of—

(i) work readiness skill attainment using an employer validated checklist;

(ii) placement in or return to secondary or postsecondary education or training, or entry into unsubsidized employment; and

(B) for low-income youth participating in year-round employment activities under section 5103, performance on indicators consisting of—

(i) placement in or return to postsecondary education;

(ii) attainment of a secondary school diploma or equivalent;

(iii) attainment of an industry-recognized credential; and

(iv) entry into, retention in, and earnings in unsubsidized employment.

(c) ACTIVITIES REQUIRED TO BE ADDITIONAL.—Funds provided under this title shall only be used for activities that are in addition to activities that would otherwise be available in the State or local workforce investment area in the absence of such funds.

(d) ADDITIONAL REQUIREMENTS.—The Secretary of Labor may establish such additional requirements as the Secretary determines to be necessary to meet fiscal integrity, effective monitoring, and the appropriate and prompt implementation of the activities under this title.

(e) REPORT OF INFORMATION AND EVALUATION TO CONGRESS AND THE PUBLIC.—The Secretary of Labor shall provide to the appropriate committees of Congress and make public the information report pursuant to subsection (b).

SEC. 5105. VISA SURCHARGE.

(a) COLLECTION.—

(1) IN GENERAL.—Subject to paragraph (2), and in addition to any fees otherwise imposed for such visas, the Secretary shall collect a surcharge of $10 from an employer that submits an application for—

(A) an employment-based visa under paragraph (3), (4), (5), or (6) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153); or

(B) a nonimmigrant visa under subparagraph (C), (H)(1)(b), (H)(1)(c), (H)(1)(a), (1)(b), (B), (O), (P), (R), or (W) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)).

(2) EXPIRATION.—The Secretary shall suspend the collection of the surcharge authorized under paragraph (1) on the date on which the Secretary has collected a cumulative total of $1,000,000,000 under this subsection.

(b) DEPOSIT.—All of the amounts collected under subsection (a)(1) shall be deposited in the general fund of the Treasury.

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore (Mr. Coons). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1238

Mr. REED. Mr. President, I am prepared to make a request for consent.

I believe the Republican leader will respond, and at the conclusion of his response I wish to be recognized to make additional comments.

Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. 1238, the Keep Student Loans Affordable Act, the text of which is at the desk, the bill be read three times and passed, and the motion to reconsider be considered made and laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. I object.

The PRESIDENT pro tempore. Objection is heard.

The Republican leader is recognized.

Mr. MCCONNELL. I ask unanimous consent the Senate proceed to the consideration of a bill introduced earlier today by Senators MANCHIN, KING,