



In title I, at the end of subtitle B, add the following:

**SEC. \_\_\_\_ SOUTHWEST BORDER SECURITY TASK FORCE.**

(a) **SHORT TITLE.**—This section may be cited as the “Southwest Border Security Task Force Act of 2006”.

(b) **SOUTHWEST BORDER SECURITY TASK FORCE PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish a Southwest Border Security Task Force Program to—

(A) facilitate local participation in providing recommendations regarding steps to enhance border security; and

(B) provide financial and other assistance in implementing such recommendations.

(2) **NUMBER.**—In carrying out the program established under paragraph (1), the Secretary shall establish at least 1 Border Security Task Force (referred to in this section as a “Task Force”) in each State that is adjacent to the international border between the United States and Mexico.

(3) **MEMBERSHIP.**—Each Task Force shall be composed of representatives from—

(A) relevant Federal agencies;

(B) State and local law enforcement agencies;

(C) State and local government;

(D) community organizations;

(E) Indian tribes; and

(F) other interested parties.

(4) **CHAIRMAN.**—Each Task Force shall select a Chairman from among its members.

(5) **RECOMMENDATIONS.**—Not later than 9 months after the date of enactment of this Act, and annually thereafter, each Task Force shall submit a report to the Secretary containing—

(A) specific recommendations to enhance border security along the international border between the State in which such Task Force is located and Mexico; and

(B) a request for financial and other resources necessary to implement the recommendations during the subsequent fiscal year.

(c) **BORDER SECURITY GRANTS.**—

(1) **GRANTS AUTHORIZED.**—The Secretary shall award a grant to each Task Force submitting a request under subsection (b)(5)(B) to the extent that—

(A) sufficient funds are available; and

(B) the request is consistent with the Nation’s comprehensive border security strategy.

(2) **MINIMUM AMOUNT.**—Not less than 1 Task Force in each of the States bordering Mexico shall be eligible to receive a grant under this subsection in an amount not less than \$500,000.

(3) **REPORT.**—Not later than 90 days after the end of each fiscal year for which Federal financial assistance or other resources were received by a Task Force, the Task Force shall submit a report to the Secretary describing how such financial assistance or other resources were used by the Task Force and by the organizations that its members represent.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$10,000,000 for each of fiscal years 2007 through 2010 to carry out this section.

**SA 3428.** Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ TEMPORARY ADMITTANCE OF MEXICAN NATIONALS WITH BORDER CROSSING CARDS.**

The Secretary shall permit a national of Mexico, who enters the United States with a valid Border Crossing Card (as described in section 212.1(c)(1)(i) of title 8, Code of Federal Regulations, as in effect on the date of the enactment of this Act), and who is admitted to the United States at the Columbus, Santa Teresa, or Antelope Wells port of entry in New Mexico, to remain in New Mexico (within 75 miles of the international border between the United States and Mexico) for a period not to exceed 30 days.

**SA 3429.** Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ ANNUAL REPORT ON THE NORTH AMERICAN DEVELOPMENT BANK.**

Section 2 of Public Law 108–215 (22 U.S.C. 290m–6) is amended—

(1) in paragraph (1), by inserting after “The number” the following: “of applications received by, pending with, and awaiting final approval from the Board of the North American Development Bank and the number”; and

(2) by adding at the end the following:

“(8) Recommendations on how to improve the operations of the North American Development Bank.

“(9) An update on the implementation of this Act, including the business process review undertaken by the North American Development Bank.

“(10) A description of the activities and accomplishments of the North American Development Bank during the previous year, including a brief summary of meetings and actions taken by the Board of the North American Development Bank.”.

**SA 3430.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_—BORDER HEALTH SECURITY**

**SEC. \_\_\_\_01. SHORT TITLE.**

This Act may be cited as the “Border Health Security Act of 2006”.

**SEC. \_\_\_\_02. DEFINITIONS.**

In this title:

(1) **BORDER AREA.**—The term “border area” has the meaning given the term “United States-Mexico Border Area” in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n–6).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

**SEC. \_\_\_\_03. BORDER BIOTERRORISM PREPAREDNESS GRANTS.**

(a) **ELIGIBLE ENTITY DEFINED.**—In this section, the term “eligible entity” means a State, local government, tribal government, or public health entity.

(b) **AUTHORIZATION.**—From funds appropriated under subsection (e), the Secretary shall award grants to eligible entities for bioterrorism preparedness in the border area.

(c) **APPLICATION.**—An eligible entity that desires a grant under this section shall sub-

mit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) **USES OF FUNDS.**—An eligible entity that receives a grant under subsection (b) shall use the grant funds to—

(1) develop and implement bioterror preparedness plans and readiness assessments and purchase items necessary for such plans;

(2) coordinate bioterrorism and emergency preparedness planning in the region;

(3) improve infrastructure, including syndrome surveillance and laboratory capacity;

(4) create a health alert network, including risk communication and information dissemination;

(5) educate and train clinicians, epidemiologists, laboratories, and emergency personnel; and

(6) carry out such other activities identified by the Secretary, the United States-Mexico Border Health Commission, State and local public health offices, and border health offices.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

**SEC. \_\_\_\_04. BORDER HEALTH DEMONSTRATION PROJECTS.**

(a) **ELIGIBLE ENTITY DEFINED.**—In this section, the term “eligible entity” means a State, public institution of higher education, local government, tribal government, nonprofit health organization, or community health center receiving assistance under section 330 of the Public Health Service Act (42 U.S.C. 254b), that is located in the border area.

(b) **AUTHORIZATION.**—From funds appropriated under subsection (f), the Secretary, acting through the United States members of the United States-Mexico Border Health Commission, shall award grants to eligible entities to fund demonstration projects to address priorities and recommendations to improve the health of border area residents that are established by—

(1) the United States members of the United States-Mexico Border Health Commission;

(2) the State border health offices; and

(3) the Secretary.

(c) **APPLICATION.**—An eligible entity that desires a grant under subsection (b) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) **USE OF FUNDS.**—An eligible entity that receives a grant under subsection (b) shall use the grant funds for—

(1) demonstration programs relating to—

(A) maternal and child health;

(B) primary care and preventative health;

(C) public health and public health infrastructure;

(D) health promotion;

(E) oral health;

(F) behavioral and mental health;

(G) substance abuse;

(H) health conditions that have a high prevalence in the border area;

(I) medical and health services research;

(J) workforce training and development;

(K) community health workers or promotoras;

(L) health care infrastructure problems in the border area (including planning and construction grants);

(M) health disparities in the border area;

(N) environmental health;

(O) health education; and

(P) outreach and enrollment services with respect to Federal programs (including programs authorized under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 and 1397aa)); and

(2) other demonstration programs determined appropriate by the Secretary.

(e) SUPPLEMENT, NOT SUPPLANT.—Amounts provided to an eligible entity awarded a grant under subsection (b) shall be used to supplement and not supplant other funds available to the eligible entity to carry out the activities described in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each fiscal year.

**SEC. 05. PROVISION OF RECOMMENDATIONS AND ADVICE TO CONGRESS.**

Section 5 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-3) is amended by adding at the end the following:

“(d) PROVIDING ADVICE AND RECOMMENDATIONS TO CONGRESS.—A member of the Commission, or an individual who is on the staff of the Commission, may at any time provide advice or recommendations to Congress concerning issues that are considered by the Commission. Such advice or recommendations may be provided whether or not a request for such is made by a member of Congress and regardless of whether the member or individual is authorized to provide such advice or recommendations by the Commission or any other Federal official.”.

**SEC. 06. BINATIONAL PUBLIC HEALTH INFRASTRUCTURE AND HEALTH INSURANCE.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning binational public health infrastructure and health insurance efforts. In conducting such study, the Institute shall solicit input from border health experts and health insurance issuers.

(b) REPORT.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit to the Secretary and the appropriate committees of Congress a report concerning the study conducted under such contract. Such report shall include the recommendations of the Institute on ways to expand or improve binational public health infrastructure and health insurance efforts.

**SA 3431.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 01. BORDER SECURITY CERTIFICATION.**

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who enters or entered the United States illegally, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States until the Secretary provides written certification to the President and the Congress that the borders of the United States are reasonably sealed and secured.

**SA 3432.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3366 submitted by Mr. REED and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other

purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

**SEC. 01. CONDITIONAL NONIMMIGRANT WORK AUTHORIZATION AND STATUS.**

Section 218D(c) of the Immigration and Nationality Act, as added by section 601, is amended to read as follows:

“(c) SPOUSES AND CHILDREN AND CERTAIN OTHER INDIVIDUALS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

“(1) adjust the status to that of a conditional nonimmigrant under this section for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under this section;

“(2) adjust the status to that of a conditional nonimmigrant under this section for an alien who, before January 7, 2004, was the spouse or child of an alien who is provided conditional nonimmigrant status under this section, or is eligible for such status, if—

“(A) the termination of the qualifying relationship was connected to domestic violence; and

“(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided conditional nonimmigrant status under this section; or

“(3) adjust the status to that of a conditional immigrant under this section for an individual who was present in the United States on January 7, 2004, and is the national of a country designated at that time for protective status pursuant to section 244.”.

**SA 3433.** Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 3382 submitted by Mr. STEVENS (for himself, Mr. SHELBY, Mr. INOUE, and Mrs. HUTCHISON) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike the title relating to improved maritime security and insert the following:

**TITLE —IMPROVED MARITIME SECURITY**

**SEC. 500. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the “Maritime and Transportation Security Act of 2006.”

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

**TITLE V—IMPROVED MARITIME SECURITY**

- Sec. 501. Establishment of additional interagency operational centers for port security.
- Sec. 502. Area maritime transportation security plan to include salvage response plan.
- Sec. 503. Assistance for foreign ports.
- Sec. 504. Specific port security initiatives.
- Sec. 505. Technical requirements for non-intrusive inspection equipment.
- Sec. 506. Random inspection of containers.
- Sec. 507. Port security user fee study.
- Sec. 508. Port security grants.
- Sec. 509. Work stoppages and employee-employer disputes.
- Sec. 510. Inspection of car ferries entering from Canada.

**TITLE V—IMPROVED MARITIME SECURITY**

**SEC. 501. ESTABLISHMENT OF ADDITIONAL INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.**

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish interagency operational centers for port security at all high priority ports.

(b) CHARACTERISTICS.—The interagency operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project interagency operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California, and the virtual operation center at the port of New York/New Jersey;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by—

(A) representatives of the United States Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security;

(B) representatives of State and local law enforcement or port security agencies and personnel; and

(C) members of the area maritime security committee, as deemed appropriate by the captain of the port;

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70119 of that title;

(E) the United States Customs and Border Protection’s screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers.

(e) SECURITY CLEARANCE ASSISTANCE.—The Secretary of the department in which the Coast Guard is operating may assist non-Federal personnel described in subsection (b)(3)(B) or (C) in obtaining expedited appropriate security clearances and in maintaining their security clearances.

(f) SECURITY INCIDENTS.—During a transportation security incident (as defined in

section 70101(6) of title 46, United States Code) involving a port, the Coast Guard Captain of the Port designated by the Commandant of the Coast Guard in each joint operations center for maritime security shall act as the incident commander, unless otherwise directed under the National Maritime Transportation Security Plan established under section 70103 of title 46, United States Code.

**SEC. 502. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.**

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

“(E) include a salvage response plan—

“(i) to identify salvage equipment capable of restoring operational trade capacity; and

“(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.”

**SEC. 503. ASSISTANCE FOR FOREIGN PORTS.**

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§ 70109. International cooperation and coordination”;** and

(2) by adding at the end the following:

“(c) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary, in consultation with the Secretary of State, shall enter into negotiations with foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, and the International Standards Organization, as appropriate—

“(1) to promote standards for the security of containers and other cargo moving within the international supply chain;

“(2) to encourage compliance with minimum technical requirements for the capabilities of nonintrusive inspection equipment, including imaging and radiation detection devices, established under section \_\_\_\_\_ of the Maritime and Transportation Security Act of 2006 Act;

“(3) to implement the requirements of the container security initiative under section 70117; and

“(4) to implement standards and procedures established under section 70119.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70901 and inserting the following:

“70901. International cooperation and coordination”.

**SEC. 504. SPECIFIC PORT SECURITY INITIATIVES.**

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to withholding of clearance), as added by section 802(a)(2) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122;

(4) by striking section 70116;

(5) by redesignating sections 70117 through 70122 (as redesignated) as sections 70120 through 70126; and

(6) by inserting after section 70115 the following:

**“§ 70116. Automated targeting system**

“(a) IN GENERAL.—The Secretary shall develop and maintain an antiterrorism cargo identification and screening system for containerized cargo shipped to the United States either directly or via a foreign port to assess imports and target those imports which pose a high risk of containing contraband.

“(b) 24-HOUR ADVANCE NOTIFICATION.—In order to provide the best possible data for the automated targeting system, the Secretary shall require importers shipping goods to the United States via cargo container to supply advanced trade data not later than 24 hours before loading a container under the advance notification requirements under section 484(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)). The requirement shall apply to goods entered after July 1, 2007.

“(c) SECURE TRANSMISSION; CONFIDENTIALITY.—All information required by the Secretary from supply chain partners under this section shall—

“(1) be transmitted in a secure fashion, as determined by the Secretary, so as to protect the information from unauthorized access; and

“(2) shall not be subject to public disclosure under section 552 of title 5.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) There are authorized to be appropriated to the Secretary of Homeland Security to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection—

“(A) \$30,700,000 for fiscal year 2007;

“(B) \$33,200,000 for fiscal year 2008; and

“(C) \$35,700,000 for fiscal year 2009.

“(2) The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

**“§ 70117. Container security initiative**

“(a) IN GENERAL.—The Secretary shall issue regulations to—

“(1) evaluate and screen cargo documents prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

“(2) inspect high-risk cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means.

“(b) IMPLEMENTATION.—The Commissioner of Customs and Border Protection shall execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under subsection (a) are implemented in an effective manner.

“(c) APPLICATION OF CONTAINER SECURITY INITIATIVE TO OTHER PORTS.—

“(1) IN GENERAL.—The Secretary, through the Commissioner of Customs and Border Protection, may designate foreign seaports under this section if, with respect to any such seaport, the Secretary determines that—

“(A) the seaport—

“(i) presents a significant level of risk;

“(ii) is a significant port or origin or transshipment, in terms of volume or value, for cargo being imported to the United States; and

“(iii) is potentially capable of validating a secure system of transportation pursuant to section 70119; and

“(B) the Department of State and representatives of the country with jurisdiction over the port have completed negotiations to ensure compliance with the requirements of the container security initiative.

“(2) COORDINATION WITH INTERNATIONAL CARGO SECURITY STANDARDS.—In carrying out paragraph (a), the Secretary shall—

“(A) consult with the Secretary of State concerning progress under section 70109(d); and

“(B) coordinate activities under paragraph (1) with activities conducted under that section.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

“(1) \$142,000,000 for fiscal year 2007;

“(2) \$144,000,000 for fiscal year 2008; and

“(3) \$146,000,000 for fiscal year 2009.

**“§ 70118. Customs-Trade Partnership Against Terrorism validation program**

“(a) IN GENERAL.—The Secretary shall establish a voluntary program to strengthen and improve the overall security of the international supply chain and United States border security.

“(b) VALIDATION; RECORDS MANAGEMENT.—The Secretary shall issue regulations—

“(1) to strengthen the validation process to verify that security programs of members of the Customs-Trade Partnership Against Terrorism have been implemented and that the program benefits should continue by providing appropriate guidance to specialists conducting such validations, including establishing what level of review is adequate to determine whether member security practices are reliable, accurate, and effective; and

“(2) to implement a records management system that documents key decisions and significant operational events accurately and in a timely manner, including a reliable system for—

“(A) documenting and maintaining records of all decisions in the application through validation processes, including documentation of the objectives, scope, methodologies, and limitations of validations; and

“(B) tracking member status.

“(b) HUMAN CAPITAL PLAN.—Within 6 months after the date of enactment of the Transportation Security Improvement Act of 2005, the Secretary shall complete a human capital plan, that clearly describes how the Customs-Trade Partnership Against Terrorism program will recruit, train, and retain sufficient staff to conduct the work of the program successfully, including reviewing security profiles, vetting, and conducting validations to mitigate program risk.

“(c) REVALIDATION.—The Secretary shall establish a process for revalidating C-TPAT participants. Such revalidation shall occur not less frequently than once during every 3-year period following validation.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed—

“(1) \$60,000,000 for fiscal year 2007;

“(2) \$65,000,000 for fiscal year 2008; and

“(3) \$72,000,000 for fiscal year 2009.

**“§ 70119. Secure systems of transportation**

“(a) IN GENERAL.—The Secretary shall establish a program, to be known as the ‘GreenLane program’, to evaluate and certify secure systems of international intermodal transportation—

“(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded into a cargo container for international shipment until they reach their ultimate destination; and

“(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.

“(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Secretary, acting through the Commissioner of Customs and Border Protection, shall—

“(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

“(2) ensure that cargo is loaded at a port designated under section 70117 for shipment to the United States;

“(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for container security devices;

“(4) establish standards and procedures for securing cargo and monitoring that security while in transit;

“(5) ensure that cargo complies with additional security criteria established by the Secretary beyond the minimum requirements for C-TPAT participation under section 70118, particularly in the area of access controls;

“(6) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

“(7) incorporate any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

“(c) BENEFITS FROM PARTICIPATION.—

“(1) ELIGIBILITY.—The Commissioner of Customs and Border Protection may by regulation provide for expedited clearance of cargo for an entity that—

“(A) meets or exceeds the standards established under subsection (b); and

“(B) certifies the security of its supply chain not less often than once every 2 years to the Secretary.

“(2) BENEFITS.—The expedited clearance provided under paragraph (1) to any eligible entity may include—

“(A) the expedited release of GreenLane cargo into destination ports within the United States during all threat levels designated by the Secretary or the Commandant of the Coast Guard;

“(B) reduced or eliminated bonding requirements for GreenLane cargo;

“(C) priority processing for searches;

“(D) further reduced scores in the automated targeting system; and

“(E) streamlined billing of any customs duties or fees.

“(d) CONSEQUENCES OF LACK OF COMPLIANCE.—

“(1) IN GENERAL.—Any participant whose security measures and supply chain security practices have been determined by the Secretary to be out of compliance with any requirements of the program shall be denied benefits under the program.

“(2) RIGHT OF APPEAL.—Any participant determined by the Secretary under paragraph (1) not to be in compliance with the requirements of the program may appeal that determination to the Secretary.”

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

- “70116. Automated targeting system
- “70117. Container security initiative
- “70118. Customs-Trade Partnership Against Terrorism validation program
- “70119. Secure systems of transportation
- “70120. In rem liability for civil penalties and certain costs
- “70121. Firearms, arrests, and seizure of property
- “70122. Withholding of clearance
- “70123. Enforcement by State and local officers

- “70124. Container security initiative
- “70125. Civil penalty”.

(2) Section 70117(a) of title 46, United States Code, is amended by striking “section 70120” and inserting “section 70125”.

(3) Section 70119(a) of such title, as redesignated by subsection (a)(1) of this section, is amended—

(A) by striking “under section 70119,” and inserting “under section 70125,”; and

(B) by striking “under section 70120,” and inserting “under that section.”.

**SEC. 505. TECHNICAL REQUIREMENTS FOR NON-INTRUSIVE INSPECTION EQUIPMENT.**

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Domestic Nuclear Detection Office, in consultation with the National Institute of Science and Technology and the U.S. Customs and Border Protection, shall initiate a rulemaking—

(1) to establish minimum technical requirements for the capabilities of non-intrusive inspection equipment for cargo, including imaging and radiation devices; and

(2) to ensure that all equipment used can detect risks and threats as determined appropriate by the Secretary.

(b) ENDORSEMENTS; SOVEREIGNTY CONFLICTS.—In establishing such requirements, the Domestic Nuclear Detection Office shall be careful to avoid the endorsement of products associated with specific companies and the creation of sovereignty conflicts with participating countries.

(c) RADIATION SAFETY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a plan to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Appropriations, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Appropriations that—

(1) details the health and safety impacts of nonintrusive inspection technology; and

(2) describes the policy of the Bureau of Customs and Border Protection for using nonintrusive inspection equipment.

(d) FINAL RULE DEADLINE.—The Domestic Nuclear Detection Office shall issue a final rule under subsection (a) within 1 year after the rulemaking proceeding is initiated.

**SEC. 506. RANDOM INSPECTION OF CONTAINERS.**

Within 1 year after the date of enactment of this Act, the Commissioner of Customs and Border Protection shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling standards for random physical inspection of shipping containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Commissioner. Nothing in this section shall be construed to mean that implementation of the random sampling plan would preclude the additional physical inspection of shipping containers not inspected pursuant to the plan.

**SEC. 507. PORT SECURITY USER FEE STUDY.**

The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. Within 1 year after date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transpor-

tation and Infrastructure, and the House of Representatives Committee on Homeland Security that—

(1) contains the Secretary’s findings, conclusions, and recommendations (including legislative recommendations if appropriate); and

(2) includes an assessment of the annual amount of customs fees and duties collected through oceanborne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security.

**SEC. 508. PORT SECURITY GRANTS.**

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking “for making a fair and equitable allocation of funds” and inserting “based on risk and vulnerability”.

(b) ELIGIBLE COSTS.—Section 70107(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(c) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

“(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.”.

(d) OPERATION SAFE COMMERCE.—Section 70107(i) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

(2) by inserting after paragraph (3) the following:

“(4) OPERATION SAFE COMMERCE.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the [To be supplied] Act, the Secretary shall initiate grant projects that—

“(i) integrate nonintrusive inspection and radiation detection equipment with automatic identification methods for containers, vessels, and vehicles;

“(ii) test physical access control protocols and technologies;

“(iii) create a data sharing network capable of transmitting data required by entities participating in the international supply chain from every intermodal transfer point to the National Targeting Center of the Department; and

“(iv) otherwise further maritime and cargo security, as determined by the Secretary.

“(B) SUPPLY CHAIN SECURITY FOR SPECIAL CONTAINER AND NONCONTAINERIZED CARGO.—The Secretary shall consider demonstration projects that further the security of the international supply chain for special container cargo, including refrigerated containers, and noncontainerized cargo, including roll-on/roll-off, break-bulk, liquid, and dry bulk cargo.

“(C) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary shall submit a report detailing the results of Operation Safe Commerce to—

“(i) the Senate Committee on Commerce, Science, and Transportation;

“(ii) the Senate Committee on Homeland Security and Governmental Affairs;

“(iii) the House of Representatives Committee on Homeland Security;

“(iv) the Senate Committee on Appropriations; and

“(v) the House of Representatives Committee on Appropriations.”.

(e) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Homeland Security shall—

(1) direct research, development, test, and evaluation efforts in furtherance of maritime and cargo security;

(2) encourage the ingenuity of the private sector in developing and testing technologies

and process innovations in furtherance of these objectives; and

(3) evaluate such technologies.

(f) **COORDINATION.**—The Secretary of Homeland Security, acting through the Undersecretary for Science and Technology, in consultation with the Assistant Secretary for Policy, the Director of Cargo Security Policy, and the Chief Financial Officer, shall ensure that—

(1) research, development, test, and evaluation efforts funded by the Department in furtherance of maritime and cargo security are coordinated to avoid duplication of efforts; and

(2) the results of such efforts are shared throughout the Department, as appropriate.

**SEC. 509. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.**

Section 70101(6) is amended by inserting after “area.” the following: “In this paragraph, the term ‘economic disruption’ does not include a work stoppage or other non-violent employee-related action resulting from an employee-employer dispute.”.

**SEC. 510. INSPECTION OF CAR FERRIES ENTERING FROM CANADA.**

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, in coordination with the Secretary of State, and their Canadian counterparts, shall develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States port.

**SA 3434.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 10 and all that follows through page 416, line 11, and insert the following:

(c) **PERIOD OF AUTHORIZED ADMISSION.**—

(1) **IN GENERAL.**—An alien may be granted blue card status for a period not to exceed 2 years.

(2) **RETURN TO COUNTRY.**—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) **ELIGIBILITY FOR NONIMMIGRANT VISA.**—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any non-immigrant visa.

(d) **LOSS OF EMPLOYMENT.**—

(1) **IN GENERAL.**—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) **RETURN TO COUNTRY.**—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) **PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.**—

(1) **IN GENERAL.**—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) **LOSS OF ELIGIBILITY.**—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant visa outside the United States.

**SA 3435.** Mr. CHAMBLISS submitted an amendment intended to be proposed

to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 11, strike “863 hours or”.

**SA 3436.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, lines 8 and 9, strike “3 or more misdemeanors” and insert “misdemeanor”.

**SA 3437.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . . BORDER SECURITY CERTIFICATION.**

Beginning on the date of the enactment of this Act, the Secretary may not implement the new conditional nonimmigrant work authorization programs provided for in this Act that grant legal status to any individual who illegally enters or entered the United States until the Secretary provides written certification to the President and the Congress that the border security and enforcement provisions provided for in this Act are in place and operational as determined by the Secretary of Homeland Security.

**SA 3438.** Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the proposed instructions, insert the following:

(e) **WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.**—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting “and immigrants with advanced degrees” after “diversity immigrants”; and

(2) by amending subsection (e) to read as follows:

“(e) **WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.**—

“(1) **DIVERSITY IMMIGRANTS.**—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

“(2) **IMMIGRANTS WITH ADVANCED DEGREES.**—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.”.

(f) **IMMIGRANTS WITH ADVANCED DEGREES.**—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “paragraph (2), aliens subject to the worldwide level specified in section 201(e)” and inserting “paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

“(2) **ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.**—

“(A) **IN GENERAL.**—Qualified immigrants who hold a master’s or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

“(B) **ECONOMIC CONSIDERATIONS.**—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.”;

(D) in paragraph (3), as redesignated, by striking “this subsection” each place it appears and inserting “paragraph (1)”;

(E) by amending paragraph (4), as redesignated, to read as follows:

“(4) **MAINTENANCE OF INFORMATION.**—

“(A) **DIVERSITY IMMIGRANTS.**—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

“(B) **IMMIGRANTS WITH ADVANCED DEGREES.**—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).”; and

(2) in subsection (e)—

(A) in paragraph (2), by striking “(c)” and inserting “(c)(1)”;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

“(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

“(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

“(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

“(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

“(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

“(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.”.

(g) **DIVERSITY VISA CARRYOVER.**—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

“(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or

any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.”

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

**SA 3439.** Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

In the language proposed to be stricken, at the appropriate place insert the following:

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting “and immigrants with advanced degrees” after “diversity immigrants”; and

(2) by amending subsection (e) to read as follows:

“(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

“(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

“(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.”

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “paragraph (2), aliens subject to the worldwide level specified in section 201(e)” and inserting “paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

“(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

“(A) IN GENERAL.—Qualified immigrants who hold a master’s or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

“(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.”;

(D) in paragraph (3), as redesignated, by striking “this subsection” each place it appears and inserting “paragraph (1)”;

(E) by amending paragraph (4), as redesignated, to read as follows:

“(4) MAINTENANCE OF INFORMATION.—

“(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information

on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

“(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).”; and

(2) in subsection (e)—

(A) in paragraph (2), by striking “(c)” and inserting “(c)(1)”;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

“(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

“(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

“(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

“(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

“(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

“(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.”

(g) DIVERSITY VISA CARRYOVER.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

“(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.”

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

**SA 3440.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SENSE OF THE SENATE REGARDING REIMBURSING STATES FOR THE COSTS OF UNDOCUMENTED IMMIGRANTS.**

(a) FINDINGS.—The Senate finds the following:

(1) It is the obligation of the Federal Government to adequately secure the borders of the United States and prevent the flow of undocumented immigrants into the United States.

(2) Despite the fact that, according to the Congressional Research Service, Border Patrol agents apprehend more than 1,000,000 individuals each year trying to illegally enter the United States, the net growth in the number of unauthorized immigrants entering the United States has increased by approximately 500,000 each year.

(3) The costs associated with incarcerating undocumented criminal immigrants and providing education and healthcare to undocumented immigrants place a tremendous financial burden on States and local governments.

(4) In 2003, States received compensation from the Federal Government, through the State criminal alien assistance program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), for incarcerating approximately 74,000 undocumented criminal immigrants.

(5) In 2003, 700 local governments received compensation from the Federal Government, through the State criminal alien assistance program, for incarcerating approximately 138,000 undocumented criminal immigrants.

(6) It is estimated that Federal Government payments through the State criminal alien assistance program reimburse States and local governments for 25 percent or less of the actual costs of incarcerating the undocumented criminal immigrants.

(7) It is estimated that providing kindergarten through grade 12 education to undocumented immigrants costs States more than \$8,000,000,000 annually.

(8) It is further estimated that more than \$1,000,000,000 is spent on healthcare for undocumented immigrants each year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) States should be fully reimbursed by the Federal Government for the costs associated with providing education and healthcare to undocumented immigrants; and

(2) the program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) should be fully funded, for each of the fiscal years 2007 through 2012, at the levels authorized for such program under section 241(i)(5) of such Act (as amended by section 218(b)(2) of this Act).

**SA 3441.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

**SEC. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.**

Notwithstanding any other provision of law, any fee or, penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

**SA 3442.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

**SEC. . SUFFICIENCY FOR REVENUE FOR ENFORCEMENT.**

Notwithstanding any other provision of law, any fee, revenue, or penalty required to be paid pursuant to this Act or an amendment made by this Act, shall be deposited in a special account in the Treasury to be available to the Secretary to implement the provisions of this Act without further appropriations and shall remain available until expended.

**SA 3443.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . PROTECTION OF THE INTEGRITY OF THE SOCIAL SECURITY SYSTEM.**

(a) TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.—

(1) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

“(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

“(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of the Congress of the President’s intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

“(B) the President transmits the text of such agreement to each House of the Congress as provided in paragraph (2), and

“(C) an approval resolution regarding such agreement has passed both Houses of the Congress and has been enacted into law.

“(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of the Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President’s report shall include the following:

“(i) an estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title;

“(ii) a statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law,

“(iii) a statement describing whether and how the agreement changes provisions of an agreement previously negotiated,

“(iv) a statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title,

“(v) an estimate of the number of individuals who will be affected by the agreement,

“(vi) an assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement, and

“(vii) an assessment of ability of such country to track and monitor recipients of benefits under such agreement.

“(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to the Congress in the transmittal to the Congress

under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by the Congress under this section and shall have no force and effect under United States law.

“(3) For purposes of this subsection, the term ‘approval resolution’ means a joint resolution, the matter after the resolving clause of which is as follows: ‘That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and \_\_\_\_\_ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of \_\_\_\_\_, transmitted to the Congress by the President on \_\_\_\_\_, is hereby approved.’, the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to the Congress.

“(4) Whenever a document setting forth an agreement entered into under this section and the President’s report in support of the agreement is transmitted to the Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

“(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to the Congress on or after April 1, 2006.

(b) BIENNIAL GAO REPORT ON IMPACT TOTALIZATION AGREEMENTS.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

“(6) Not later than January 1, 2007, and biennially thereafter, the Comptroller General of the United States shall submit a report to Congress and the President with respect to each such agreement that has become effective that—

“(A) compares the estimates, statements, and assessments contained in the report submitted to Congress under paragraph (2) with respect to that agreement with the actual number of individuals affected by the agree-

ment and the actual effect of the agreement on the estimated income and expenditures of the social security system established by this title; and

“(B) contains such recommendations for adjusting the methods used to make the estimates, statements, and assessments required for reports submitted under paragraph (2) as the Comptroller General determines necessary.”

**SA 3444.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . PROTECTION OF THE INTEGRITY OF THE SOCIAL SECURITY SYSTEM.**

(a) TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.—

(1) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

“(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

“(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of the Congress of the President’s intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

“(B) the President transmits the text of such agreement to each House of the Congress as provided in paragraph (2), and

“(C) an approval resolution regarding such agreement has passed both Houses of the Congress and has been enacted into law.

“(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of the Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President’s report shall include the following:

“(i) an estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title;

“(ii) a statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law,

“(iii) a statement describing whether and how the agreement changes provisions of an agreement previously negotiated,

“(iv) a statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title,

“(v) an estimate of the number of individuals who will be affected by the agreement,

“(vi) an assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement, and

“(vii) an assessment of ability of such country to track and monitor recipients of benefits under such agreement.

“(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to the Congress in the transmittal to the Congress under this paragraph of the agreement to establish a totalization arrangement, then

such separate agreement or understanding shall not be considered to be part of the agreement approved by the Congress under this section and shall have no force and effect under United States law.

“(3) For purposes of this subsection, the term ‘approval resolution’ means a joint resolution, the matter after the resolving clause of which is as follows: ‘That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and \_\_\_\_\_ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of \_\_\_\_\_, transmitted to the Congress by the President on \_\_\_\_\_, is hereby approved.’, the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to the Congress.

“(4) Whenever a document setting forth an agreement entered into under this section and the President’s report in support of the agreement is transmitted to the Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

“(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to the Congress on or after March 1, 2006.

(b) BIENNIAL GAO REPORT ON IMPACT TOTALIZATION AGREEMENTS.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)), as amended by subsection (a)(1), is amended by adding at the end the following new paragraph:

“(6) Not later than January 1, 2007, and biennially thereafter, the Comptroller General of the United States shall submit a report to Congress and the President with respect to each such agreement that has become effective that—

“(A) compares the estimates, statements, and assessments contained in the report submitted to Congress under paragraph (2) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on the estimated income and expenditures of

the social security system established by this title; and

“(B) contains such recommendations for adjusting the methods used to make the estimates, statements, and assessments required for reports submitted under paragraph (2) as the Comptroller General determines necessary.”

**SA 3445.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ PROHIBITION ON PAYMENT OF SOCIAL SECURITY BENEFITS BASED ON QUARTERS OF COVERAGE EARNED BY AN INDIVIDUAL WHO IS NOT A UNITED STATES CITIZEN OR NATIONAL WHILE THAT INDIVIDUAL IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.**

(a) IN GENERAL.—Section 213(a)(2)(B)(i) of the Social Security Act (42 U.S.C. 413(a)(2)(B)(i)) is amended—

(1) by striking “and no quarter” and inserting “, no quarter”; and

(2) by inserting before the semicolon the following: “, and no quarter any part of which includes wages paid to an individual or self-employment income earned by an individual while the individual was not assigned a social security account number consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i) or was not described in section 214(c)(2) shall be a quarter of coverage”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) filed on or after the date of enactment of this Act.

**SA 3446.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ PROHIBITION ON PAYMENT OF SOCIAL SECURITY BENEFITS BASED ON QUARTERS OF COVERAGE EARNED BY AN INDIVIDUAL WHO IS NOT A UNITED STATES CITIZEN OR NATIONAL WHILE THAT INDIVIDUAL IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.**

(a) IN GENERAL.—Section 213(a)(2)(B)(i) of the Social Security Act (42 U.S.C. 413(a)(2)(B)(i)) is amended—

(1) by striking “and no quarter” and inserting “, no quarter”; and

(2) by inserting before the semicolon the following: “, and no quarter any part of which includes wages paid to an individual or self-employment income earned by an individual while the individual was not assigned a social security account number consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i) or was not described in section 214(c)(2) shall be a quarter of coverage”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) filed one day after the date of enactment of this Act.

**SA 3447.** Mr. ENSIGN submitted an amendment intended to be proposed by

him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$500,000,000 for each of the fiscal years 2007 through 2011 to reimburse States that use the National Guard to secure their borders, provided that not more than \$100,000,000 may be paid to any one State in a fiscal year. Not less than 10% of the money appropriated in any given year shall be available to states along the Northern border of the United States.

**SA 3448.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$500,000,000 for each of the fiscal years 2007 through 2011 to reimburse States that use the National Guard to secure their borders, provided that not more than \$100,000,000 may be paid to any one State in a fiscal year. Not less than 20% of the money appropriated in any given year shall be available to states along the Northern border of the United States.

**SA 3449.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

**SA 3450.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

**SA 3451.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 17, strike “and”.  
On page 386, line 21, strike the period at the end and insert “; and”.

On page 386, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 398, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 401, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

**SA 3452.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, line 2, strike "or".

On page 388, strike line 14 and insert the following:

or harm to property in excess of \$500; or  
(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

**SA 3453.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 18 and all that follows through page 396, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

**SA 3454.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 416, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

**SA 3455.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, strike lines 21 through 25 and insert the following:

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 7.5 or more hours in agricultural employment.

On page 386, strike lines 10 through 13 and insert the following:

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

On page 386, line 17, strike "and".

On page 386, line 21, strike the period at the end and insert "; and".

On page 386, between lines 21 and 22, insert the following:

(D) has been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 388, line 2, strike "or".

On page 388, strike line 14 and insert the following:

or harm to property in excess of \$500; or

(iii) the alien fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

Beginning on page 395, strike line 18 and all that follows through page 396, line 9, and insert the following:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States, for at least 100 work days per year, during the 5-year period beginning on the date of enactment of this Act; or

(bb) 3 years of agricultural employment in the United States, for at least 150 work days per year, during the 3-year period beginning on the date of enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to qualify under subclause (I) if the alien has performed 4 years of agricultural employment in the United States, for at least 150 work days during 3 of the 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of enactment of this Act.

On page 398, strike lines 18 through 20 and insert the following:

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 401, strike lines 22 through 24 and insert the following:

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

On page 416, strike lines 8 through 11 and insert the following:

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for the startup costs of the program authorized under this section for each of fiscal years 2007 and 2008.

**SA 3456.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr.

FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 525, after line 2, add the following:

**Subtitle E—Farm Worker Transportation Safety**

**SEC. \_\_\_\_\_ . SHORT TITLE.**

This subtitle may be cited as the "Farm Worker Transportation Safety Act".

**SEC. \_\_\_\_\_ . SEATS AND SEAT BELTS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS.**

(a) SEATS.—Except as provided in subsection (d), in promulgating vehicle safety standards under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) for the transportation of migrant and seasonal agricultural workers by farm labor contractors, agricultural employers or agricultural associations, the Secretary of Labor shall ensure that each occupant or rider in, or on, any vehicle subject to such standards is provided with a seat that is a designated seating position (as such term is defined for purposes of the Federal motor vehicle safety standards issued under chapter 301 of title 49, United States Code).

(b) SEAT BELTS.—Each seating position required under subsection (a) shall be equipped with an operational seat belt, except that this subsection shall not apply with respect to seating positions in buses that would otherwise not be required to have seat belts under the Federal motor vehicle safety standards.

**(c) PERFORMANCE REQUIREMENTS.—**

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Labor, shall issue minimum performance requirements for the strength of seats and the attachment of seats and seat belts in vehicles that are converted, after being sold for purposes other than resale, for the purpose of transporting migrant or seasonal agricultural workers. The requirements shall provide a level of safety that is as close as practicable to the level of safety provided for in a vehicle that is manufactured or altered for the purpose of transporting such workers before being sold for purposes other than resale.

(2) EXPIRATION.—Effective on the date that is 7 years after the date of enactment of this Act, any vehicle that is or has been converted for the purpose of transporting migrant or seasonal agricultural workers shall provide the same level of safety as a vehicle that is manufactured or altered for such purpose prior to being sold for purposes other than resale.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the regulations contained in section 500.103, or the provision pertaining to transportation that is primarily on private roads in section 500.104(l), of title 29, Code of Federal Regulations, as in effect on the date of enactment of this Act.

(e) DEFINITIONS.—The definitions contained in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802) shall apply to this section.

(f) COMPLIANCE DATE.—Not later than 1 year after such date of enactment, all vehicles subject to this Act shall be in compliance with the requirements of this section.

**SA 3457.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(f) **TERRORIST ACTIVITIES.**—Section 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by striking “, under circumstances indicating an intention to cause death or serious bodily harm, incited” and inserting “incited or advocated”; and

(2) in subclause (VII), by striking “or espouses terrorist activity or persuades others to endorse or espouse” and inserting “espouses, or advocates terrorist activity or persuades others to endorse, espouse, or advocate”.

(g)

**SA 3458.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 222. COMPREHENSIVE METHAMPHETAMINE PLAN.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) **CONTENTS OF PLAN.**—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most pseudoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific funding request that outlines what, if any, additional appropriations are needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) **GAO REPORT.**—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

**SA 3459.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 57, line 15, strike “(f)” and insert the following:

(f) **TERRORIST ACTIVITIES.**—Section 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by striking “, under circumstances indicating an intention to cause death or serious bodily harm, incited” and inserting “incited or advocated”; and

(2) in subclause (VII), by striking “or espouses terrorist activity or persuades others

to endorse or espouse” and inserting “espouses, or advocates terrorist activity or persuades others to endorse, espouse, or advocate”.

(g)

**SA 3460.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 222. COMPREHENSIVE METHAMPHETAMINE PLAN.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) **CONTENTS OF PLAN.**—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most pseudoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific funding request that outlines what, if any, additional appropriations are needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) **GAO REPORT.**—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

**SA 3461.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) **IN GENERAL.**—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

“(II) is a professional athlete, as defined in section 204(i)(2),

“(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition, or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) **ADVISORY OPINIONS.**—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),” after “101(a)(15)(P)”;

(2) in paragraph (6)(A)(iii), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))” after “101(a)(15)(P)(i)”.

(c) **PETITIONS FOR MULTIPLE ALIENS.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

“(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.”.

(d) **RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

“(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).”.

**SA 3462.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) **IN GENERAL.**—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

“(II) is a professional athlete, as defined in section 204(i)(2),

“(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition, or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) **ADVISORY OPINIONS.**—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),” after “101(a)(15)(P)”;

(2) in paragraph (6)(A)(iii), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))” after “101(a)(15)(P)(i)”.

(c) **PETITIONS FOR MULTIPLE ALIENS.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

“(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.”.

(d) **RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

“(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).”.

**SA 3462.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) **IN GENERAL.**—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

“(II) is a professional athlete, as defined in section 204(i)(2),

“(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition, or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) **ADVISORY OPINIONS.**—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),” after “101(a)(15)(P)”;

(2) in paragraph (6)(A)(iii), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))” after “101(a)(15)(P)(i)”.

(c) **PETITIONS FOR MULTIPLE ALIENS.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

“(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.”.

(d) **RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

“(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).”.

**SA 3462.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) **IN GENERAL.**—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

“(II) is a professional athlete, as defined in section 204(i)(2),

“(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition, or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) **ADVISORY OPINIONS.**—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),” after “101(a)(15)(P)”;

(2) in paragraph (6)(A)(iii), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))” after “101(a)(15)(P)(i)”.

(c) **PETITIONS FOR MULTIPLE ALIENS.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

“(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.”.

(d) **RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

“(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).”.

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition, or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) ADVISORY OPINIONS.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),” after “101(a)(15)(P)”;

(2) in paragraph (6)(A)(iii), by inserting “(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))” after “101(a)(15)(P)(i)”.

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

“(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.”.

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

“(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).”.

**SA 3463.** Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following: 0

**SEC. . NATIONAL LANGUAGE ACT OF 2006.**

(a) SHORT TITLE.—This section may be cited as the “National Language Act of 2006”.

(b) ENGLISH AS OFFICIAL LANGUAGE.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

**“CHAPTER 6—LANGUAGE OF THE GOVERNMENT**

“Sec

“161. Declaration of official language

“162. Official Government activities in English

“163. Preserving and enhancing the role of the official language

“164. Exceptions

**“§ 161. Declaration of official language**

“English shall be the official language of the Government of the United States.

**“§ 162. Official government activities in English**

“The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

**“§ 163. Preserving and enhancing the role of the official language**

“The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

**SA 3464.** Mr. INHOFE (for himself and Mr. VITTEER) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

**Subtitle D—National Border Neighborhood Watch Program**

**SEC. 131. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.**

The Commissioner of the United States Customs and Border Protection (referred to in this subtitle as the “USCBP”) shall establish a National Border Neighborhood Watch Program (referred to in this subtitle as the “NBNW Program”) to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

**SEC. 132. BRAVE FORCE.**

(a) ESTABLISHMENT.—There is established in the USCBP a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as “BRAVE Force”), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—In this section, the term “retired law enforcement officer” means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(l) of the Social Security Act (42 U.S.C. 416(l))).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the USCBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Fed-

eral Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees’ service in the NBNW Program.

**SEC. 133. CIVILIAN VOLUNTEERS.**

(a) IN GENERAL.—The USCBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the USCBP for expenses related to carrying out the duties of the NBNW Program.

**SEC. 134. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.**

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer’s participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

**SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

**SA 3465.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 23, insert the following:

**SEC. 107. ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE.**

(a) FINDINGS.—Congress finds the following:

(1) On July 17, 2002, 18 aliens who were present in the United States illegally, including 3 minors, were taken into custody by the Tulsa County Sheriff’s Department. The aliens were later released by officials of the former Immigration and Naturalization Service.

(2) On August 13, 2002, an immigration task force meeting convened in Tulsa, Oklahoma, with the goal of bringing together local law enforcement and the Immigration and Naturalization Service to open a dialogue to find effective ways to better enforce Federal immigration laws in the first District of Oklahoma.

(3) On January 22, 2003, 4 new agents at the Immigration and Naturalization Service office in Oklahoma City were hired.

(4) On January 30, 2003, Oklahoma’s Immigration and Naturalization Service office added 6 new special agents to their staff.

(5) On September 22, 2004, officials of the Bureau of Immigration and Customs Enforcement of the Department authorized the release of 18 individuals who may have been present in the United States illegally and were in the custody of the police department of the City of Catoosa, Oklahoma.

Catoosa Police stopped a truck carrying 18 individuals, including children, in the early morning hours on that date. Only 2 of the individuals produced identification. One adult was arrested on drug possession charges and the remaining individuals were released.

(6) Oklahoma has 1 Office of Investigations of the Bureau of Immigration and Customs Enforcement, which is located in Oklahoma City. In 2005, 12 agents of the Bureau of Immigration and Customs Enforcement served the 3,500,000 people residing in Oklahoma.

(7) Highway I-44 and U.S.-75 are major roads through Tulsa, Oklahoma, that are used to transport illegal aliens to all areas of the United States.

(8) The establishment of a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma, will help enforce Federal immigration laws in Eastern Oklahoma.

(9) Seven agents of the Drug Enforcement Administration and an estimated 22 agents of the Federal Bureau of Investigation are assigned to duty stations in Tulsa, Oklahoma, and there are no agents of the Bureau of Immigration and Customs Enforcement who are assigned to a duty station in Tulsa, Oklahoma.

(b) ESTABLISHMENT OF FIELD OFFICE IN TULSA, OKLAHOMA.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma.

**SA 3466.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

**Subtitle D—Immigration Enforcement Training**

**SEC. 131. IMMIGRATION ENFORCEMENT TRAINING DEMONSTRATION PROJECT.**

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary is authorized to provide assistance to the President of Cameron University, located in Lawton, Oklahoma, to establish and implement the demonstration project (referred to in this subtitle as the “Project”) described in this subtitle.

(2) PURPOSE.—The purposes of the Project shall be to assess the feasibility of establishing a nationwide e-learning training course, covering basic immigration law enforcement issues, to be used by State, local, and tribal law enforcement officers in order to improve and enhance the ability of such officers, during their routine course of duties, to assist Federal immigration officers in the enforcement of immigration laws of the United States.

(b) PROJECT DIRECTOR RESPONSIBILITIES.—The Project shall be carried out by the Project Director, who shall—

(1) develop an online, e-learning Web site that—

(A) provides State, local, and tribal law enforcement officers access to the e-learning training course;

(B) enrolls officers in the e-learning training course;

(C) records the performance of officers on the course;

(D) tracks officers’ proficiency in learning the course’s concepts;

(E) ensures a high level of security; and

(F) encrypts personal and sensitive information;

(2) develop an e-learning training course that—

(A) entails not more than 4 hours of training;

(B) is accessible through the on-line, e-learning Web site developed under paragraph (1);

(C) covers the basic principles and practices of immigration law and the policies that relate to the enforcement of immigration laws;

(D) includes instructions about—

(i) employment-based and family-based immigration;

(ii) the various types of nonimmigrant visas;

(iii) the differences between immigrant and nonimmigrant status;

(iv) the differences between lawful and unlawful presence;

(v) the criminal and civil consequences of unlawful presence;

(vi) the various grounds for removal;

(vii) the types of false identification commonly used by illegal and criminal aliens;

(viii) the common methods of alien smuggling and groups that commonly participate in alien smuggling rings;

(ix) the inherent legal authority of local law enforcement officers to enforce federal immigration laws; and

(x) detention and removal procedures, including expeditious removal; and

(E) is accessible through the secure, encrypted on-line, e-learning Web site not later than 90 days of the date of enactment of this Act, and

(F) incorporates content similar to that covered in the 4-hour training course provided by the employees of the Immigration and Naturalization Service to Alabama State Troopers during 2003, in addition to the training given pursuant to an agreement by the State under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and

(3) assess the feasibility of expanding to State, local, and tribal law enforcement agencies throughout the Nation the on-line, e-learning Web site, including the e-learning training course, by using on-line technology.

(c) PERIOD OF PROJECT.—The Project Director shall carry out the demonstration project for a 2-year period beginning 90 days after the date of the enactment of this Act.

(d) PARTICIPATION IN PROJECT.—The Project Director shall carry out the demonstration project by enrolling in the e-learning training course State, local, and tribal law enforcement officers from—

(1) Alabama;

(2) Colorado;

(3) Florida;

(4) Oklahoma;

(5) Texas; and

(6) at least 1, but not more than 3, other States.

(e) PARTICIPATING OFFICERS.—

(1) NUMBER.—A total of 100,000 officers shall have access to, enroll in, and complete the e-learning training course provided under the Project.

(2) APPORTIONMENT.—The number of officers who are selected to participate in the Project shall be apportioned according to the State populations of the participating States.

(3) SELECTION.—Participation in the Project shall—

(A) be equally apportioned between State, county, and municipal law enforcement agency officers;

(B) include, when practicable, a significant subset of tribal law enforcement officers; and

(C) include officers from urban, rural, and highly rural areas.

(4) RECRUITMENT.—Recruitment of participants shall begin immediately, and occur concurrently, with the e-learning training course’s establishment and implementation.

(5) LIMITATION ON PARTICIPATION.—Officers shall be ineligible to participate in the demonstration project if they are employed by a State, local, or tribal law enforcement agency that—

(A) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(B) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

(6) ADDITIONAL REQUIREMENTS.—The law enforcement officers selected to participate in the e-learning training course provided under the Project—

(A) shall undergo standard vetting procedures, pursuant to the Federal Law Enforcement Training Center Distributed Learning Program, to ensure that each individual is a bona fide law enforcement officer; and

(B) shall be granted continuous access, throughout the 2-year period of the Project, to on-line course material and other training and reference resources accessible through the on-line, e-learning Web site.

(f) REPORT.—

(1) IN GENERAL.—Not later than the end of the 2-year period described in subsection (c), the Project Director shall submit a report on the participation of State, local, and tribal law enforcement officers in the Project’s e-learning training course to—

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

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

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

(D) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an estimate of the cost savings realized by offering training through the e-learning training course instead of the residential classroom method;

(B) an estimate of the difference between the 100,000 law enforcement officers who received training through the e-learning training course and the number of law enforcement officers who could have received training through the residential classroom method in the same 2-year period;

(C) the effectiveness of the e-learning training course with respect to student-officer performance;

(D) the convenience afforded student-officers with respect to their ability to access the e-learning training course at their own convenience and to return to the on-line, e-learning Web site for refresher training and reference; and

(E) the ability of the on-line, e-learning Web site to safeguard the student officers’ private and personal information while providing supervisors with appropriate information about student performance and course completion.

**SEC. 132. EXPANSION OF PROGRAM.**

(a) IN GENERAL.—After the completion of the Project, the Secretary shall—

(1) continue to make available the on-line, e-learning Web site and the e-learning training course developed in the Project;

(2) annually enroll 100,000 new State, local, and tribal law enforcement officers in such e-learning training course; and

(3) consult with Congress regarding the addition, substitution, or removal of States eligible to participate in such e-learning training course.

(b) LIMITATION ON PARTICIPATION.—An individual is ineligible to participate in the expansion of the Project established under this subtitle if the individual is employed by a State, local, or tribal law enforcement agency that—

(1) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(2) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

**SEC. 133. AUTHORIZATION OF APPROPRIATIONS.**

(a) FISCAL YEAR 2007.—There are authorized to be appropriated \$3,000,000 to the Secretary in fiscal year 2007 to carry out this subtitle.

(b) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated in fiscal year 2008, and each subsequent fiscal year, such sums as may be necessary to continue to operate, promote, and recruit participants for the Project and the expansion of the Project under this subtitle.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section shall remain available until expended.

**SA 3467.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike lines 10 through 13 and insert the following:

(c) STUDY ON THE USE OF TECHNOLOGY TO PREVENT UNLAWFUL IMMIGRATION.—The Secretary shall conduct a study of available technology, including radar animal detection systems, that could be utilized to—

(1) increase the security of the international borders of the United States; and

(2) permit law enforcement officials to detect and prevent illegal immigration.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the plan required under subsection (a);

(2) the results of the study carried out under subsection (c); and

(3) recommendations of the Secretary related to the efficacy of the technologies studied under subsection (c).

**SA 3468.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CRIMINAL PENALTIES FOR FORGERY OF FEDERAL DOCUMENTS.**

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

**“§ 515. Federal records, documents, and writings, generally**

“Any person who—

“(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

“(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

“(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in

paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

“(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

“(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3), shall be fined under this title, imprisoned not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

“515. Federal records, documents, and writings, generally.”.

**SA 3469.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . IMMIGRATION TRAINING FOR LAW ENFORCEMENT.**

The Assistant Secretary of Homeland Security for the Bureau of Immigration and Customs Enforcement (ICE) shall maximize the training provided by ICE by using law-enforcement-sensitive, secure, encrypted, Web-based e-learning, including the Distributed Learning Program of the Federal Law Enforcement Training Center to provide—

(1) basic immigration enforcement training for State, local, and tribal police officers;

(2) training, mentoring, and updates authorized under section 287(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) through e-learning, to the maximum extent possible; and

(3) access to ICE information, updates, and notices for ICE field agents during field deployments.

**SA 3470.** Mr. INHOFE (for himself, Mr. ENZI, Mr. BYRD, Mr. COBURN, Mr. BUNNING, Mr. CHAMBLISS, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . NATIONAL LANGUAGE ACT OF 2006.**

(a) SHORT TITLE.—This section may be cited as the “National Language Act of 2006”.

(b) ENGLISH AS OFFICIAL LANGUAGE.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

**“CHAPTER 6—LANGUAGE OF THE GOVERNMENT**

“Sec

“161. Declaration of official language

“162. Official Government activities in English

“163. Preserving and enhancing the role of the official language

“164. Exceptions

**“§ 161. Declaration of official language**

“English shall be the official language of the Government of the United States.

**“§ 162. Official government activities in English**

“The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

**“§ 163. Preserving and enhancing the role of the official language**

“The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

**SA 3471.** Mr. INHOFE (for himself, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**Subtitle D—National Border Neighborhood Watch Program**

**SEC. 131. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.**

The Commissioner of the United States Customs and Border Protection (referred to in this subtitle as the “USCBP”) shall establish a National Border Neighborhood Watch Program (referred to in this subtitle as the “NBNW Program”) to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

**SEC. 132. BRAVE FORCE.**

(a) ESTABLISHMENT.—There is established in the USCBP a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as “BRAVE Force”), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—In this section, the term “retired law enforcement officer” means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(l) of the Social Security Act (42 U.S.C. 416(l)).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the USCBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Federal Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees’ service in the NBNW Program.

**SEC. 133. CIVILIAN VOLUNTEERS.**

(a) IN GENERAL.—The USCBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the USCBP for expenses related to carrying out the duties of the NBNW Program.

**SEC. 134. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.**

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer's participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

**SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

**SA 3472.** Mr. INHOFE submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 107. ESTABLISHMENT OF IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE.**

(a) FINDINGS.—Congress finds the following:

(1) On July 17, 2002, 18 aliens who were present in the United States illegally, including 3 minors, were taken into custody by the Tulsa County Sheriff's Department. The aliens were later released by officials of the former Immigration and Naturalization Service.

(2) On August 13, 2002, an immigration task force meeting convened in Tulsa, Oklahoma, with the goal of bringing together local law enforcement and the Immigration and Naturalization Service to open a dialogue to find effective ways to better enforce Federal immigration laws in the first District of Oklahoma.

(3) On January 22, 2003, 4 new agents at the Immigration and Naturalization Service office in Oklahoma City were hired.

(4) On January 30, 2003, Oklahoma's Immigration and Naturalization Service office added 6 new special agents to their staff.

(5) On September 22, 2004, officials of the Bureau of Immigration and Customs Enforcement of the Department authorized the release of 18 individuals who may have been present in the United States illegally and were in the custody of the police department of the City of Catoosa, Oklahoma. Catoosa Police stopped a truck carrying 18 individuals, including children, in the early morning hours on that date. Only 2 of the individuals produced identification. One adult was arrested on drug possession charges and the remaining individuals were released.

(6) Oklahoma has 1 Office of Investigations of the Bureau of Immigration and Customs Enforcement, which is located in Oklahoma City. In 2005, 12 agents of the Bureau of Immigration and Customs Enforcement served the 3,500,000 people residing in Oklahoma.

(7) Highway I-44 and U.S.-75 are major roads through Tulsa, Oklahoma, that are used to transport illegal aliens to all areas of the United States.

(8) The establishment of a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma, will help enforce Federal immigration laws in Eastern Oklahoma.

(9) Seven agents of the Drug Enforcement Administration and an estimated 22 agents of the Federal Bureau of Investigation are assigned to duty stations in Tulsa, Oklahoma, and there are no agents of the Bureau of Immigration and Customs Enforcement who are assigned to a duty station in Tulsa, Oklahoma.

(b) ESTABLISHMENT OF FIELD OFFICE IN TULSA, OKLAHOMA.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a field office of the Office of Investigations of the Bureau of Immigration and Customs Enforcement in Tulsa, Oklahoma.

**SA 3473.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**Subtitle D—Immigration Enforcement Training**

**SEC. 131. IMMIGRATION ENFORCEMENT TRAINING DEMONSTRATION PROJECT.**

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary is authorized to provide assistance to the President of Cameron University, located in Lawton, Oklahoma, to establish and implement the demonstration project (referred to in this subtitle as the "Project") described in this subtitle.

(2) PURPOSE.—The purposes of the Project shall be to assess the feasibility of establishing a nationwide e-learning training course, covering basic immigration law enforcement issues, to be used by State, local, and tribal law enforcement officers in order to improve and enhance the ability of such officers, during their routine course of duties, to assist Federal immigration officers in the enforcement of immigration laws of the United States.

(b) PROJECT DIRECTOR RESPONSIBILITIES.—The Project shall be carried out by the Project Director, who shall—

(1) develop an online, e-learning Web site that—

(A) provides State, local, and tribal law enforcement officers access to the e-learning training course;

(B) enrolls officers in the e-learning training course;

(C) records the performance of officers on the course;

(D) tracks officers' proficiency in learning the course's concepts;

(E) ensures a high level of security; and

(F) encrypts personal and sensitive information;

(2) develop an e-learning training course that—

(A) entails not more than 4 hours of training;

(B) is accessible through the on-line, e-learning Web site developed under paragraph (1);

(C) covers the basic principles and practices of immigration law and the policies that relate to the enforcement of immigration laws;

(D) includes instructions about—

(i) employment-based and family-based immigration;

(ii) the various types of nonimmigrant visas;

(iii) the differences between immigrant and nonimmigrant status;

(iv) the differences between lawful and unlawful presence;

(v) the criminal and civil consequences of unlawful presence;

(vi) the various grounds for removal;

(vii) the types of false identification commonly used by illegal and criminal aliens;

(viii) the common methods of alien smuggling and groups that commonly participate in alien smuggling rings;

(ix) the inherent legal authority of local law enforcement officers to enforce federal immigration laws; and

(x) detention and removal procedures, including expeditious removal; and

(E) is accessible through the secure, encrypted on-line, e-learning Web site not later than 90 days of the date of enactment of this Act, and

(F) incorporates content similar to that covered in the 4-hour training course provided by the employees of the Immigration and Naturalization Service to Alabama State Troopers during 2003, in addition to the training given pursuant to an agreement by the State under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and

(3) assess the feasibility of expanding to State, local, and tribal law enforcement agencies throughout the Nation the on-line, e-learning Web site, including the e-learning training course, by using on-line technology.

(c) PERIOD OF PROJECT.—The Project Director shall carry out the demonstration project for a 2-year period beginning 90 days after the date of the enactment of this Act.

(d) PARTICIPATION IN PROJECT.—The Project Director shall carry out the demonstration project by enrolling in the e-learning training course State, local, and tribal law enforcement officers from—

(1) Alabama;

(2) Colorado;

(3) Florida;

(4) Oklahoma;

(5) Texas; and

(6) at least 1, but not more than 3, other States.

(e) PARTICIPATING OFFICERS.—

(1) NUMBER.—A total of 100,000 officers shall have access to, enroll in, and complete the e-learning training course provided under the Project.

(2) APPORTIONMENT.—The number of officers who are selected to participate in the Project shall be apportioned according to the State populations of the participating States.

(3) SELECTION.—Participation in the Project shall—

(A) be equally apportioned between State, county, and municipal law enforcement agency officers;

(B) include, when practicable, a significant subset of tribal law enforcement officers; and

(C) include officers from urban, rural, and highly rural areas.

(4) RECRUITMENT.—Recruitment of participants shall begin immediately, and occur concurrently, with the e-learning training course's establishment and implementation.

(5) LIMITATION ON PARTICIPATION.—Officers shall be ineligible to participate in the demonstration project if they are employed by a State, local, or tribal law enforcement agency that—

(A) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(B) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

(6) ADDITIONAL REQUIREMENTS.—The law enforcement officers selected to participate in the e-learning training course provided under the Project—

(A) shall undergo standard vetting procedures, pursuant to the Federal Law Enforcement Training Center Distributed Learning Program, to ensure that each individual is a bona fide law enforcement officer; and

(B) shall be granted continuous access, throughout the 2-year period of the Project, to on-line course material and other training and reference resources accessible through the on-line, e-learning Web site.

(f) REPORT.—

(1) IN GENERAL.—Not later than the end of the 2-year period described in subsection (c), the Project Director shall submit a report on the participation of State, local, and tribal law enforcement officers in the Project's e-learning training course to—

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

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

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

(D) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an estimate of the cost savings realized by offering training through the e-learning training course instead of the residential classroom method;

(B) an estimate of the difference between the 100,000 law enforcement officers who received training through the e-learning training course and the number of law enforcement officers who could have received training through the residential classroom method in the same 2-year period;

(C) the effectiveness of the e-learning training course with respect to student-officer performance;

(D) the convenience afforded student-officers with respect to their ability to access the e-learning training course at their own convenience and to return to the on-line, e-learning Web site for refresher training and reference; and

(E) the ability of the on-line, e-learning Web site to safeguard the student officers' private and personal information while providing supervisors with appropriate information about student performance and course completion.

#### SEC. 132. EXPANSION OF PROGRAM.

(a) IN GENERAL.—After the completion of the Project, the Secretary shall—

(1) continue to make available the on-line, e-learning Web site and the e-learning training course developed in the Project;

(2) annually enroll 100,000 new State, local, and tribal law enforcement officers in such e-learning training course; and

(3) consult with Congress regarding the addition, substitution, or removal of States eligible to participate in such e-learning training course.

(b) LIMITATION ON PARTICIPATION.—An individual is ineligible to participate in the expansion of the Project established under this subtitle if the individual is employed by a State, local, or tribal law enforcement agency that—

(1) has in effect a statute, policy, or practice that prohibits its law enforcement officers from cooperating with Federal immigration enforcement agents; or

(2) is otherwise in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

#### SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2007.—There are authorized to be appropriated \$3,000,000 to the Sec-

retary in fiscal year 2007 to carry out this subtitle.

(b) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated in fiscal year 2008, and each subsequent fiscal year, such sums as may be necessary to continue to operate, promote, and recruit participants for the Project and the expansion of the Project under this subtitle.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section shall remain available until expended.

**SA 3474.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(c) STUDY ON THE USE OF TECHNOLOGY TO PREVENT UNLAWFUL IMMIGRATION.—The Secretary shall conduct a study of available technology, including radar animal detection systems, that could be utilized to—

(1) increase the security of the international borders of the United States; and

(2) permit law enforcement officials to detect and prevent illegal immigration.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report, which shall include—

(1) the plan required under subsection (a);

(2) the results of the study carried out under subsection (c); and

(3) recommendations of the Secretary related to the efficacy of the technologies studied under subsection (c).

**SA 3475.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . CRIMINAL PENALTIES FOR FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

##### “§ 515. Federal records, documents, and writings, generally

“Any person who—

“(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

“(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

“(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

“(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

“(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3),

shall be fined under this title, imprisoned not more than 10 years, or both.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

“515. Federal records, documents, and writings, generally.”

**SA 3476.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . IMMIGRATION TRAINING FOR LAW ENFORCEMENT.

The Assistant Secretary of Homeland Security for the Bureau of Immigration and Customs Enforcement (ICE) shall maximize the training provided by ICE by using law-enforcement-sensitive, secure, encrypted, Web-based e-learning, including the Distributed Learning Program of the Federal Law Enforcement Training Center to provide—

(1) basic immigration enforcement training for State, local, and tribal police officers;

(2) training, mentoring, and updates authorized under section 287(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) through e-learning, to the maximum extent possible; and

(3) access to ICE information, updates, and notices for ICE field agents during field deployments.

**SA 3477.** Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 163, strike lines 23 through 25 and insert the following:

(a) IN GENERAL.—Any alien with non-immigrant status under subparagraph (H)(i)(b) or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), who seeks to practice medicine in the United States, other than during participation in an accredited medical residency program, shall, during the 3-year period from the date of commencement of such status (or, in the case of an alien who initially practices medicine as part of such medical residency program, from the date of completion of such program), practice medicine in a facility that treats patients who reside in a Health Professional Shortage Area (as designated under section 5 of title 42, Code of Federal Regulations) or a Medically Underserved Area (as designated by the Secretary of Health and Human Services).

(b) EXEMPTION FROM NUMERICAL LIMITATION.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(D) practices medicine in a facility that treats patients who reside in a Health Professional Shortage Area or a Medically Underserved Area, in accordance with section

226(a) of the Comprehensive Immigration Reform Act of 2006.”.

(c) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

**SA 3478.** Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(5) DEPUTY UNITED STATES MARSHALS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.”.

On page 7, between lines 3 and 4, insert the following:

“(4) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out paragraph (5) of subsection (a).”.

**SA 3479.** Mr. DOMENICI (for himself, Mr. DORGAN, Mr. BURNS, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 62, after line 9, add the following:

**Subtitle F—Border Infrastructure and Technology Modernization**

**SEC. 161. SHORT TITLE.**

This subtitle may be cited as the “Border Infrastructure and Technology Modernization Act”.

**SEC. 162. DEFINITIONS.**

In this subtitle:

(1) COMMISSIONER.—The term “Commissioner” means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term “maquiladora” means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term “northern border” means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term “southern border” means the international border between the United States and Mexico.

**SEC. 163. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.**

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106-319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 154; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

**SEC. 164. NATIONAL LAND BORDER SECURITY PLAN.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

**SEC. 165. EXPANSION OF COMMERCE SECURITY PROGRAMS.**

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel, of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date

of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs-Trade Partnership Against Terrorism program, which has been successfully implemented along the northern border, along the southern border.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

**SEC. 166. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.—Under the technology demonstration program, the Secretary shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under

the technology demonstration program established under this section.

(2) **CONTENT.**—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

**SEC. 167. AUTHORIZATION OF APPROPRIATIONS.**  
(a) **IN GENERAL.**—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 153(a);

(2) to carry out section 153(d)—

(A) \$100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 155(a)—

(A) \$30,000,000 for fiscal year 2007, of which \$5,000,000 shall be made available to fund the demonstration project established in section 156(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(4) to carry out section 155(b)—

(A) \$5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 156, provided that not more than \$10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) \$50,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) **INTERNATIONAL AGREEMENTS.**—Amounts authorized to be appropriated under this subtitle may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this subtitle.

**SA 3480.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . COOPERATION WITH THE GOVERNMENT OF MEXICO.**

(a) **COOPERATION REGARDING BORDER SECURITY.**—The Secretary of State, in cooperation with the Secretary and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) **COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.**—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) **COOPERATION REGARDING CIRCULAR MIGRATION.**—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) **ANNUAL REPORT.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

**SA 3481.** Mr. DOMENICI (for himself, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ADDITIONAL DISTRICT COURT JUDGES.**

The President shall appoint, by and with the advice and consent of the Senate, such additional district court judges as are necessary to carry out the 2005 recommendations of the Judicial Conference for district courts in which the criminal immigration filings totaled more than 50 per cent of all criminal filings for the 12-month period ending September 30, 2004.

**SA 3482.** Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 3361 submitted by Mr. GRASSLEY (for himself and Mr. KYL) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

**TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS**

**SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.**

(a) **IN GENERAL.**—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

**“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

“(a) **MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.**—

“(1) **IN GENERAL.**—It is unlawful for an employer—

“(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing that the alien is an unauthorized alien with respect to such employment; or

“(B) to hire, or to recruit or refer for a fee, for employment in the United States an indi-

vidual unless such employer meets the requirements of subsections (c) and (d).

“(2) **CONTINUING EMPLOYMENT.**—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) **USE OF LABOR THROUGH CONTRACT.**—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

“(4) **REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.**—A rebuttable presumption is created for the purpose of a civil enforcement proceeding that an employer knowingly violated paragraph (1)(A) if the Secretary determines that—

“(A) the employer hired 50 or more new employees during a calendar year and that at least 10 percent of new employees hired in the calendar year by the employer were unauthorized aliens; or

“(B) the employer hired less than 50 new employees during a calendar year and that 5 new employees hired by the employer in the calendar year were unauthorized aliens.

“(5) **DEFENSE.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

“(B) **EXCEPTION.**—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

“(b) **ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.**—

“(1) **AUTHORITY TO REQUIRE CERTIFICATION.**—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

“(2) **CONTENT OF CERTIFICATION.**—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

“(A) the employer is in compliance with the requirements of subsections (c) and (d); or

“(B) that the employer has instituted a program to come into compliance with such requirements.

“(3) **EXTENSION.**—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

“(4) **PUBLICATION.**—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

“(c) **DOCUMENT VERIFICATION REQUIREMENTS.**—An employer hiring, or recruiting or

referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

“(1) ATTESTATION BY EMPLOYER.—

“(A) REQUIREMENTS.—

“(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

“(I) a document described in subparagraph (B); or

“(II) a document described in subparagraph (C) and a document described in subparagraph (D).

“(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

“(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of a document if the document examined reasonably appears on its face to be genuine. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine and that is sufficient to meet the requirement of clause (i), nothing in this paragraph may be construed as requiring the employer to solicit the production of any other document or as requiring the individual to produce such another document.

“(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

“(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

“(i) United States passport; or

“(ii) permanent resident card or other document designated by the Secretary, if the document—

“(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

“(II) is evidence of eligibility for employment in the United States; and

“(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

“(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

“(ii) any other documents evidencing eligibility of employment in the United States, if—

“(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

“(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

“(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States provided that such a card or document—

“(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

“(II) contains security features to make such license or card resistant to tampering, counterfeiting, or fraudulent use;

“(ii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

“(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

“(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

“(iii) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i) or (ii), a document of personal identity of such other type that—

“(I) the Secretary determines is a reliable means of identification; and

“(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

“(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

“(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

“(2) ATTESTATION OF EMPLOYEE.—

“(A) REQUIREMENTS.—

“(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited, or referred for a fee, in the United States.

“(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

“(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than \$5,000, a term of imprisonment not to exceed 3 years, or both.

“(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the

hiring, or recruiting or referring for a fee, of the individual and ending—

“(A) in the case of recruiting or referral for a fee of an individual, 3 years after the date of the recruiting or referral; or

“(B) in the case of the hiring of an individual the later of—

“(i) 3 years after the date of such hiring;

“(ii) 1 year after the date of the individual's employment is terminated; or

“(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

“(4) DOCUMENT RETENTION AND RECORD-KEEPING REQUIREMENTS.—

“(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

“(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

“(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

“(B) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

“(C) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

“(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

“(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

“(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

“(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the ‘System’) as described in this subsection.

“(2) MANAGEMENT OF SYSTEM.—

“(A) IN GENERAL.—The Secretary shall, through the System—

“(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

“(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

“(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

“(B) INITIAL RESPONSE.—

“(i) IN GENERAL.—The Secretary shall, through the System, tentatively confirm or nonconfirm an individual's identity and eligibility for employment in the United States not later than 1 working day after an employer submits an inquiry regarding the individual.

“(ii) MANUAL VERIFICATION.—If a tentative nonconfirmation is provided for an individual under clause (i), the Secretary, through the System, shall conduct a secondary manual verification not later than 9 working days after such tentative nonconfirmation is made.

“(iii) NOTICES.—Not later than 10 working days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

“(I) if the System is able to confirm, through a verification described in clause (i) or (ii), the individual’s identity and eligibility for employment in the United States, an appropriate code indicating such confirmation; or

“(II) if the System is unable to confirm, through a verification described in clause (i) or (ii), the individual’s identity or eligibility for employment in the United States, an appropriate code indicating such tentative nonconfirmation.

“(iv) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to provide a notice described in clause (iii) for an individual within the period described in such clause, an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

“(I) the System is unable to confirm the individual’s identity; or

“(II) the individual is ineligible for employment in the United States.

“(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

“(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(iii)(II), not later than 10 working days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue to the employer an appropriate code indicating final confirmation or final nonconfirmation.

“(ii) DEFAULT CONFIRMATION IN CASE OF SYSTEM FAILURE.—If the Secretary, through the System, fails to confirm or tentatively nonconfirm the individual’s identity and eligibility for employment in the United States within the period described in clause (i), an appropriate code indicating confirmation shall be provided to the employer. Such confirmation shall remain in effect for the individual until the Secretary, through the System, provides a notice that—

“(I) the System is unable to confirm the individual’s identity; or

“(II) the individual is ineligible for employment in the United States.

“(iii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

“(D) RIGHT TO APPEAL FINAL NONCONFIRMATION.—The individual shall have the right to an administrative or judicial appeal of a notice of final nonconfirmation. The Secretary shall consult with the Commissioner of Social Security to develop a process for such appeals.

“(E) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

“(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

“(ii) to respond to each inquiry made by an employer; and

“(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

“(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information during use, transmission, storage, or disposal of that information, including the use of encryption, carrying out periodic stress testing of the System to detect, prevent, and respond to vulnerabilities or other failures, and utilizing periodic security updates;

“(v) to allow for monitoring of the use of the System and provide an audit capability;

“(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status; and

“(vii) to permit individuals—

“(I) to view their own records in order to ensure the accuracy of such records; and

“(II) to contact the appropriate agency to correct any errors through an expedited process established by the Secretary, in consultation and coordination with the Commissioner of Social Security.

“(F) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation under the System shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, and in no case shall the data stored be other than—

“(i) the individual’s full legal name;

“(ii) the individual’s date of birth;

“(iii) the individual’s social security account number, or employment authorization status identification number;

“(iv) the address of the employer making the inquiry and the dates of any prior inquiries concerning the identity and authorization of the employee by the employer or any other employer and the address of such employer;

“(v) a record of each prior confirmation, tentative nonconfirmation, or final nonconfirmation made by the System for such individual; and

“(vi) in the case of the individual successfully contesting a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity or eligibility for employment of the individual, including the source of that error.

“(G) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

“(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

“(ii) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner; and

“(iii) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

“(H) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

“(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

“(ii) a determination of whether such number was issued to the named individual;

“(iii) a determination of whether the individual is authorized to be employed in the United States; and

“(iv) any other related information that the Secretary may require.

“(I) OFFICE OF ELECTRONIC VERIFICATION.—

“(i) IN GENERAL.—The Secretary shall establish the Office of Electronic Verification in the Bureau of Citizenship and Immigration Services.

“(ii) RESPONSIBILITIES.—Subject to available appropriations, the Office of Electronic Verification shall work with the Commissioner of Social Security—

“(I) to update the information maintained in the System in a manner that promotes maximum accuracy;

“(II) to provide a process for correcting erroneous information by registering not less than 97 percent of the new information and information changes submitted by employees within all relevant databases within 24 hours after submission and registering not less than 99 percent of such information within 10 working days after submission;

“(III) to ensure that at least 99 percent of the data received from field offices of the Bureau of Customs and Border Protection and from other points of contact between immigrants and the Department of Homeland Security is registered within all relevant databases within 24 hours after receipt;

“(IV) to ensure that at least 99 percent of the data received from field offices of the Social Security Administration and other points of contact between citizens and the Social Security Administration is registered within all relevant databases within 24 hours after receipt;

“(V) to employ a sufficient number of manual status verifiers to resolve 99 percent of the tentative nonconfirmations within 3 days;

“(VI) to establish and promote call-in help lines accessible to employers and employees on a 24-hour basis with questions about the functioning of the System or about the specific issues underlying a tentative nonconfirmation;

“(VII) to establish an outreach and education program to ensure that all new employers are fully informed of their responsibilities under the System; and

“(VIII) to conduct a random audit of a substantial percentage of workers’ files in a database maintained by an agency or department of the United States each year to determine accuracy rates and require corrections of errors in a timely manner.

“(J) RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any individual who contests a tentative nonconfirmation or final nonconfirmation may review and challenge the accuracy of the data elements and information within the System upon, which such a nonconfirmation was based. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation to the Office of Electronic Verification. The Office of Electronic Verification shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge. The Office of Electronic Verification shall at least annually study and issue findings concerning the most common causes for erroneous nonconfirmations and issue recommendations concerning the resolution of such causes.

“(K) PRIVACY IMPACT ASSESSMENT.—The Commissioner of Social Security and the Secretary shall each complete a privacy impact assessment as described in section 208 of the E-Government Act of 2002 (Public Law 107-347; 44 U.S.C. 3501 note) with regard to the System.

“(L) TRAINING.—The Commissioner of Social Security and the Secretary shall provide appropriate training materials to participating employers to ensure such employers are able to utilize the System in compliance with the requirements of this section.

“(M) HOTLINE.—The Secretary shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particular data that resulted on the issuance of a nonconfirmation notice under the System.

“(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

“(A) CRITICAL EMPLOYERS.—

“(i) REQUIRED PARTICIPATION.—

“(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall designate, in the Secretary’s sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers is part of the critical infrastructure of the United States or directly related to the national security or homeland security of the United States.

“(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary shall require such employer or class of employers to participate in the System, with respect to employees hired by the employer on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(ii) DISCRETIONARY PARTICIPATION.—

“(I) DESIGNATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may designate, in the Secretary’s sole and unreviewable discretion, an employer or class of employers under this subclause if the Secretary determines such employer or class of employers as a critical employer based on immigration enforcement or homeland security needs.

“(II) PARTICIPATION.—Not later than 180 days after the date an employer or class of employers is designated under subclause (I), the Secretary may require such employer or class of employers to participate in the System, with respect to employees hired on or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of

2006, the Secretary shall require all employers with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

“(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (B), (C), (D), and (E) prior to the effective date of such requirements.

“(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary’s sole and unreviewable discretion to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis.

“(5) WAIVER.—

“(A) AUTHORITY TO PROVIDE A WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

“(B) REQUIREMENT TO PROVIDE A WAIVER.—The Secretary shall waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers until the date that the Comptroller General of the United States submits the initial certification described in paragraph (13)(E) and shall waive or delay such participation during a year if the Comptroller General fails to submit a certification of paragraph (13)(E) for such year.

“(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

“(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

“(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

“(7) SYSTEM REQUIREMENTS.—

“(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, of any individual for employment in the United States, shall—

“(i) notify employees of the employer and prospective employees to whom the employer has extended a job offer that the employer participates in the System and that the System may be used for immigration enforcement purposes;

“(ii) obtain from the individual and record on the form designated by the Secretary—

“(I) the individual’s social security account number; and

“(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require;

“(iii) retain such form in electronic format, paper, microfilm, or microfiche and make such a form available for inspection for the periods and in the manner described in subsection (c)(3); and

“(iv) safeguard any information collected for purposes of the System and protect any means of access to such information to en-

sure that such information is not used for any other purpose and to protect the confidentiality of such information, including ensuring that such information is not provided to any person other than a person that carries out the employer’s responsibilities under this subsection.

“(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual’s identity and eligibility for employment in the United States not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be).

“(C) CONFIRMATION OR NONCONFIRMATION.—

“(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

“(ii) NONCONFIRMATION AND VERIFICATION.—

“(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and shall provide the individual with information about the right to contest the tentative nonconfirmation and contact information for the appropriate agency to file such contest.

“(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual’s employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice. An individual’s failure to contest a tentative nonconfirmation may not be the basis for determining that the individual acted in a knowing (as defined in section 274a.1 of title 8, Code of Federal Regulations, or any corresponding similar regulation) manner.

“(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 working days of receiving notice from the individual’s employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

“(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

“(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under subclause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

“(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

“(D) CONSEQUENCES OF NONCONFIRMATION.—

“(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual,

the employer shall terminate the employment, recruitment, or referral of the individual. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

“(ii) ASSISTANCE IN IMMIGRATION ENFORCEMENT.—If an employer has received a final nonconfirmation which is not the result of the individual’s failure to contest a tentative nonconfirmation in subparagraph (C)(ii)(II), the employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws.

“(E) UNLAWFUL USE OF SYSTEM.—It shall be an unlawful immigration-related employment practice for an employer—

“(i) to use the System prior to an offer of employment;

“(ii) to use the System selectively to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most applicants;

“(iii) to terminate or undertake any adverse employment action based on a tentative nonconfirmation described in paragraph (2)(B)(iii)(II); or

“(iv) to reverify the employment authorization of hire employees after the 3 days of the employee’s hire and after the employee has satisfied the eligibility verification provisions of subsection (b)(1) or to reverify employees hired before the date that the person or entity is required to participate in the System.

“(F) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

“(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than \$1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

“(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than \$10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

“(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

“(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

“(10) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than such an officer or employee who is responsible for the verification of employment eligibility or for the evaluation of an employment eligibility verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information, database, or other records utilized by the System.

“(11) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

“(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

“(13) ANNUAL STUDY AND REPORT.—

“(A) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct an annual study of the System as described in this paragraph.

“(B) PURPOSE OF THE STUDY.—The Comptroller General shall, for each year, undertake a study to determine whether the System meets the following requirements:

“(i) DEMONSTRATED ACCURACY OF THE DATABASES.—New information and information changes submitted by employees to the System is updated in all of the relevant databases within 3 working days of submission in at least 99 percent of all cases.

“(ii) LOW ERROR RATES AND DELAYS IN VERIFICATION.—

“(I) That, during a year, the System provides incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) for no more than 1 percent of all such notices sent during such year.

“(II) That, during a year, the System provides incorrect final nonconfirmation notices under paragraph (2)(C)(i) for no more than 3 percent of all such notices sent during such year.

“(III) That the number of incorrect tentative nonconfirmation notices under paragraph (2)(B)(ii) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

“(IV) That the number of final nonconfirmation notices under paragraph (2)(C)(i) provided by the System during a year for individuals who are not citizens of the United States is not more than 300 percent more than the number of such incorrect notices sent to citizens of the United States during such year.

“(iii) LIMITED IMPLEMENTATION COSTS TO EMPLOYERS.—No employer is required to spend more than \$10 to verify the identity and employment eligibility of an individual through the system in any year, including the costs of all staff, training, materials, or

other related costs of participation in the System.

“(iv) MEASURABLE EMPLOYER COMPLIANCE WITH SYSTEM REQUIREMENTS.—

“(I) The System has not and will not result in increased discrimination or cause reasonable employers to conclude that employees of certain races or ethnicities are more likely to have difficulties when offered employment caused by the operation of the System.

“(II) The determination described in subclause (I) is based on an independent study commissioned by the Comptroller General in each phase of expansion of the System that includes the use of testers.

“(v) PROTECTION OF WORKERS’ PRIVATE INFORMATION.—At least 97 percent of employers who participate in the System are in full compliance with the privacy requirements described in this subsection.

“(vi) ADEQUATE AGENCY STAFFING AND FUNDING.—The Secretary and Commissioner of Social Security have sufficient funding to meet all of the deadlines and requirements of this subsection.

“(C) CONSULTATION.—In conducting a study under this paragraph, the Comptroller General shall consult with representatives from business, labor, immigrant communities, State governments, privacy advocates, and appropriate executive branch agencies.

“(D) REQUIREMENT FOR REPORTS.—Not later than 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to the Secretary and to Congress a report containing the findings of the study carried out under this paragraph. Each report shall include any certification made under subparagraph (E) and, at a minimum, the following:

“(i) An assessment of the impact of the System on the employment of unauthorized workers, including whether it has indirectly caused an increase in exploitation of unauthorized workers.

“(ii) An assessment of the accuracy of databases employed by the System and of the timeliness and accuracy of the System’s responses to employers.

“(iii) An assessment of the privacy and confidentiality of the System and of its overall security with respect to cyber theft and theft or misuse of private data.

“(iv) An assessment of whether the System is being implemented in a nondiscriminatory and non-retaliatory manner.

“(v) Recommendations regarding whether or not the System should be modified prior to further expansion.

“(E) CERTIFICATION.—If the Comptroller General determines that the System meets the requirements described in subparagraph (B) for a year, the Comptroller shall certify such determination and submit such certification to Congress with the report required by subparagraph (D).

“(14) SUNSET PROVISION.—Mandatory participation in the System shall be discontinued 6 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006 unless Congress reauthorizes such participation.

“(e) COMPLIANCE.—

“(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

“(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

“(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

“(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

“(2) AUTHORITY IN INVESTIGATIONS.—

“(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

“(i) shall have reasonable access to examine evidence of any employer being investigated; and

“(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

“(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

“(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

“(3) COMPLIANCE PROCEDURES.—

“(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

“(i) describe the violation;

“(ii) specify the laws and regulations allegedly violated;

“(iii) disclose the material facts which establish the alleged violation; and

“(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

“(B) REMISSION OR MITIGATION OF PENALTIES.—

“(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

“(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

“(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

“(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was

a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

“(4) CIVIL PENALTIES.—

“(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

“(i) Pay a civil penalty of not less than \$500 and not more than \$4,000 for each unauthorized alien with respect to each such violation.

“(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than \$4,000 and not more than \$10,000 for each unauthorized alien with respect to each such violation.

“(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than \$6,000 and not more than \$20,000 for each unauthorized alien with respect to each such violation.

“(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

“(i) Pay a civil penalty of not less than \$200 and not more than \$2,000 for each such violation.

“(ii) If the employer has previously been fined 1 time during the 2-year period preceding the violation under this subparagraph, pay a civil penalty of not less than \$400 and not more than \$4,000 for each such violation.

“(iii) If the employer has previously been fined more than 1 time during the 2-year period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of \$6,000 for each such violation.

“(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

“(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

“(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

“(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until the appeal process is completed. The burden shall be on the employer to show that the final determination was not supported by a preponderance of the evidence. The Secretary is authorized to require that the peti-

tioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

“(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, no earlier than 46 days, but no later than 90 days, after the date the final determination is issued, in any appropriate district court of the United States. The burden shall remain on the employer to show that the final determination was not supported by a preponderance of the evidence.

“(7) RECOVERY OF COSTS AND ATTORNEYS' FEES.—In any appeal brought under paragraph (5) by an employer or suit brought under paragraph (6) against an employer, the employer shall be entitled to recover from the Department of Homeland Security reasonable costs and attorneys' fees if such employer substantially prevails on the merits of the case. An award of such attorneys' fees may not exceed \$25,000. Any costs and attorneys' fees assessed against the Department of Homeland Security under this paragraph shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and shall not be reimbursed from any other source.

“(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

“(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than \$20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

“(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

“(g) PROHIBITION OF INDEMNITY BONDS.—

“(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

“(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of \$2,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, the deposit of such amounts as miscellaneous receipts in the general fund.

“(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

“(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

“(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section

or is convicted of a crime under this section, the employer may be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

“(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

“(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

“(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Security to be a repeat violator of this section or is convicted of a crime under this section, may be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

“(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government’s intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

“(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

“(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

“(i) MISCELLANEOUS PROVISIONS.—

“(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

“(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

“(j) DEFINITIONS.—In this section:

“(1) EMPLOYER.—The term ‘employer’ means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an in-

dividual for employment in the United States.

“(2) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(3) UNAUTHORIZED ALIEN.—The term ‘unauthorized alien’ means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

“(A) an alien lawfully admitted for permanent residence; or

“(B) authorized to be so employed by this Act or by the Secretary.”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking “274A(h)(3)” and inserting “274A”.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking “274A(b)” and inserting “274A(d)”;

(B) in subsection (g)(2)(B)(ii), by striking “274A(b)(5)” and inserting “274A(d)”.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMMISSIONER OF SOCIAL SECURITY.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out the responsibilities of the Commission under section 274A of the Immigration and Nationality Act, as amended by subsection (a).

(2) SECRETARY OF HOMELAND SECURITY.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out section 274A of the Immigration and Nationality Act, as amended by section 301(a).

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

### SEC. 302. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

### SEC. 303. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking “citizen” and inserting “national”.

### SEC. 304. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting “, the verification of the individual’s work authorization through the Electronic Employment Verification System described in section 274A(d),” after “the individual for employment”.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

“(B) is an alien who is—

“(i) lawfully admitted for permanent residence;

“(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

“(iii) admitted as a refugee under section 207;

“(iv) granted asylum under section 208;

“(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

“(vi) granted temporary protected status under section 244; or

“(vii) granted parole under section 212(d)(5).”.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

“(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

“(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

“(B) to use the verification system for screening of an applicant prior to an offer of employment;

“(C) except as described in section 274A(d)(4)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(b).”.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking “\$250 and not more than \$2,000” and inserting “\$1,000 and not more than \$4,000”;

(B) in subclause (II), by striking “\$2,000 and not more than \$5,000” and inserting “\$4,000 and not more than \$10,000”;

(C) in subclause (III), by striking “\$3,000 and not more than \$10,000” and inserting “\$6,000 and not more than \$20,000”; and

(D) in subclause (IV), by striking “\$100 and not more than \$1,000” and inserting “\$500 and not more than \$5,000”.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting “and an additional \$40,000,000 for each of fiscal years 2007 through 2009” before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

**SA 3483.** Mr. BOND (for himself and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the

bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 324, strike line 8 and all that follows through page 332, line 7, and insert the following:

“(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining a master’s or doctorate degree or pursuing post-doctoral studies.”

(b) CREATION OF J-STEM VISA CATEGORY.—Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is amended to read as follows:

“(J) an alien with a residence in a foreign country that the alien has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, and who—

“(i) is coming temporarily to the United States as a participant in a program (other than a graduate program described in clause (ii)) designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if coming to the United States to participate in a program under which the alien will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien; or

“(ii) has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the physical or life sciences in the United States for the purpose of obtaining a master’s or doctorate degree or pursuing post-doctoral studies.”

(c) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking “subparagraph (L) or (V)” and inserting “subparagraph (F)(iv), (J)(ii), (L), or (V)”.

(d) REQUIREMENTS FOR F-4 OR J-STEM VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

“(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—”; and

(2) by adding at the end the following: “(3) A visa issued to an alien under subparagraph (F)(iv) or (J)(ii) of section 101(a)(15) shall be valid—

“(A) during the intended period of study in a graduate program described in such section;

“(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

“(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien’s status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.”

(e) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting “(1)” before “No person”;

(2) by striking “admission (i) whose” and inserting the following: “admission—

“(A) whose”;

(3) by striking “residence, (ii) who” and inserting the following: “residence;

“(B) who”;

(4) by striking “engaged, or (iii) who” and inserting the following: “engaged; or

“(C) who”;

(5) by striking “training, shall” and inserting the following: “training,

“(6) by striking “United States: *Provided*, That upon” and inserting the following: “United States.

“(2) Upon”;

(7) by striking “section 214(l): And provided further, That, except” and inserting the following: “section 214(l).

“(3) Except”; and

(8) by adding at the end the following:

“(4) An alien who qualifies for adjustment of status under section 214(m)(3)(C) shall not be subject to the 2-year foreign residency requirement under this subsection.”

(f) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as non-immigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien’s field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(g) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

“(A) the alien makes an application for such adjustment;

“(B) the alien is eligible to receive an immigrant visa;

“(C) the alien is admissible to the United States for permanent residence; and

“(D) an immigrant visa is immediately available to the alien at the time the application is filed.

“(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

“(A) the alien has been issued a visa or otherwise provided nonimmigrant status under subparagraph (J)(ii) or (F)(iv) of section 101(a)(15), or would have qualified for such nonimmigrant status if subparagraph (J)(ii) or (F)(iv) of section 101(a)(15) had been enacted before such alien’s graduation;

“(B) the alien has earned a master’s or doctorate degree or completed post-doctoral studies in the sciences, technology, engineering, or mathematics;

“(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

“(D) a fee of \$2,000 is remitted to the Secretary on behalf of the alien.

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.”

(h) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting “and 80 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting “and 20 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

**SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.**

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

“(G) Aliens who have earned a master’s or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math and have been working in a related field in the United States under a non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

“(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).”

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking “or” at the end;

(2) in subclause (II), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(III) has a master’s or doctorate degree, or completed post-doctoral studies, in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.”

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking “(beginning with fiscal year 1992)”; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking “each succeeding fiscal year; or” and inserting “each of fiscal years 2004, 2005, and 2006”; and

(ii) by adding after clause (vii) the following:

“(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

“(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or”;

(2) in paragraph (5)—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(D) has earned a master’s or doctorate degree, or completed post-doctoral studies, in science, technology, engineering, or math.”;

**SA 3484.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 233 beginning on line 14, strike all through page 491, line 9 and insert the following:

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

(B) in subclause (I), by inserting before the semicolon, “, including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials”;

(C) in subclause (III), by inserting “where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,” before “whose”; and

(D) by striking “or” at the end; and

(2) in clause (ii)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(B) by striking “1956,” and all that follows through “the alien;” and inserting the following: “1956; or

“(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

“(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

“(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

“and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien.”;

(b) **NUMERICAL LIMITATION.**—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking “The number of aliens” and all that follows through the period and inserting the following: “The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.”.

(c) **REPORTS.**—

(1) **CONTENT.**—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “The Attorney General” and inserting “The Secretary of Homeland Security”; and

(ii) by striking “concerning—” and inserting “that includes—”;

(B) in subparagraph (D), by striking “and”;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting at the end the following:

“(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

“(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

“(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

“(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.”.

(2) **FORM OF REPORT.**—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

“(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.”.

#### **SEC. 411. L VISA LIMITATIONS.**

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (E), by striking “In the case” and inserting “Except as provided in subparagraph (H), in the case”; and

(3) by adding at the end the following:

“(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

“(I) a business plan;

“(II) sufficient physical premises to carry out the proposed business activities; and

“(III) the financial ability to commence doing business immediately upon the approval of the petition.

“(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

“(I) evidence that the importing employer meets the requirements of this subsection;

“(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

“(III) a statement summarizing the original petition;

“(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

“(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

“(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

“(VII) a statement of the duties the beneficiary has performed at the new facility dur-

ing the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

“(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

“(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

“(X) evidence of the financial status of the new facility; and

“(XI) any other evidence or data prescribed by the Secretary.

“(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

“(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

“(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

“(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility’s existence in the United States and abroad.”.

#### **SEC. 412. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

#### **Subtitle B—Immigration Injunction Reform**

##### **SEC. 421. SHORT TITLE.**

This subtitle may be cited as the “Fairness in Immigration Litigation Act of 2006”.

##### **SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.**

(a) **REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.**—

(1) **IN GENERAL.**—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term "consent decree"—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term "good cause" does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term "Government" means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term "permanent relief" means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term "private settlement agreement" means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term "prospective relief" means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

**SEC. 423. EFFECTIVE DATE.**

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

**TITLE V—BACKLOG REDUCTION**

**SEC. 501. ELIMINATION OF EXISTING BACKLOGS.**

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

"(1) 480,000;

"(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

"(3) the difference between—

"(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

"(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005."

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

"(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

"(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

"(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

"(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

"(C) the difference between—

"(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

"(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

"(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1)."

**SEC. 502. COUNTRY LIMITS.**

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking ", (4), and (5)" and inserting "and (4)"; and

(B) by striking "7 percent (in the case of a single foreign state) or 2 percent" and inserting "10 percent (in the case of a single foreign state) or 5 percent"; and

(2) by striking paragraph (5).

**SEC. 503. ALLOCATION OF IMMIGRANT VISAS.**

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

"(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

"(A) 10 percent of such worldwide level; and

"(B) any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

"(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

"(i) the spouses or children of an alien lawfully admitted for permanent residence; or

"(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

"(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77

percent of the visas allocated under this paragraph.

“(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

“(A) 10 percent of such worldwide level; and

“(B) any visas not required for the classes specified in paragraphs (1) and (2).

“(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.”.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “15 percent”;

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “15 percent”;

(3) in paragraph (3)(A)—

(A) by striking “28.6 percent” and inserting “35 percent”;

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking “7.1 percent” and inserting “5 percent”;

(7) by inserting after paragraph (4), as redesignated, the following:

“(5) OTHER WORKERS.—

“(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

“(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004.”; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking “subject to the numerical limitations of section 203(b)(4).”.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS’ VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

#### SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

“(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

“(ii) In this subparagraph, the term ‘immediate relative’ means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

“(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen’s death and was not legally separated from the citizen at the time of the citizen’s death, and each child of such alien, shall be considered, for

purposes of this subsection, to remain an immediate relative after the date of the citizen’s death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

“(I) 2 years after such date; or

“(II) the date on which the spouse remarries.

“(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

“(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.”.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking “in the second sentence of section 201(b)(2)(A)(i) also” and inserting “in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)”.

#### SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

“(F)(i) During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

“(I) who is otherwise described in section 203(b); and

“(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

“(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.”.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking “201(b)(2)(A)(i)” and inserting “201(b)”.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting “, except for aliens described in section 201(b),” after “any fiscal year”.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically

trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

#### SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the “Widows and Orphans Act of 2006”.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting “; or”;

(C) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—

“(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien’s application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien’s representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien’s arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this

Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

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

(C) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

#### SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking “he has no intention of abandoning, who is” and inserting the following: “except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

“(I)”;

(B) by striking “consistent with section 214(l)” and inserting “(except for a graduate program described in clause (iv)) consistent with section 214(m)”;

(C) by striking the comma at the end and inserting the following: “; or

“(II) engaged in temporary employment for optional practical training related to the alien’s area of study, which practical training shall be authorized for a period or periods of up to 24 months;”;

(2) in clause (ii)—

(A) by inserting “or (iv)” after “clause (i)”;

and

(B) by striking “, and” and inserting a semicolon;

(3) in clause (iii), by adding “and” at the end; and

(4) by adding at the end the following:

“(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.”.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking “subparagraph (L) or (V)” and inserting “subparagraph (F)(iv), (L), or (V)”.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

“(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—”; and

(2) by adding at the end the following:

“(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

“(A) during the intended period of study in a graduate program described in such section;

“(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

“(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien’s status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.”.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as non-immigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien’s field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

“(A) the alien makes an application for such adjustment;

“(B) the alien is eligible to receive an immigrant visa;

“(C) the alien is admissible to the United States for permanent residence; and

“(D) an immigrant visa is immediately available to the alien at the time the application is filed.

“(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

“(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

“(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

“(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

“(D) a fee of \$2,000 is remitted to the Secretary on behalf of the alien.

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.”.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting “and 80 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting “and 20 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

#### SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

“(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).”.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (A), by striking “or” at the end;

(2) in subclause (II), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.”.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking “(beginning with fiscal year 1992)”; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking “each succeeding fiscal year; or” and inserting “each of fiscal years 2004, 2005, and 2006;”; and

(ii) by adding after clause (vii) the following:

“(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

“(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or”;

(2) in paragraph (5)—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(D) has earned an advanced degree in science, technology, engineering, or math.”;

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

“(9) If the numerical limitation in paragraph (1)(A)—

“(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

“(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.”.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

**SA 3485.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 225, beginning on line 17, strike all through page 491, line 9, and insert the following:

(d) OTHER STUDIES AND REPORTS.—

(1) STUDY BY LABOR.—The Secretary of Labor shall conduct a study on a sector-by-sector basis on the need for guest workers and the impact that any proposed temporary worker or guest worker program would have on wages and employment opportunities of American workers.

(2) STUDY BY GAO.—The Comptroller General of the United States shall conduct a study regarding establishing minimum criteria for effectively implementing any proposed temporary worker program and determining whether the Department has the capability to effectively enforce the program. If the Comptroller General determines that the Department does not have the capability to effectively enforce any proposed temporary worker program, the Comptroller General shall determine what additional manpower and resources would be required to ensure effective implementation.

(3) STUDY BY THE DEPARTMENT.—The Secretary shall conduct a study to determine if the border security and interior enforcement measures contained in this Act are being properly implemented and whether they are effective in securing United States borders and curbing illegal immigration.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in cooperation with the Secretary of Labor and the Comptroller General of the United States, submit a report to Congress regarding the studies conducted pursuant to paragraphs (1), (2), and (3).

#### SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

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

(B) in subclause (I), by inserting before the semicolon, “, including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials”;

(C) in subclause (III), by inserting “where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,” before “whose”; and

(D) by striking “or” at the end; and

(2) in clause (ii)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) by striking “1956,” and all that follows through “the alien;” and inserting the following: “1956; or

“(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

“(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling,

or transferring such weapons or related delivery systems; and

“(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

“and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;”.

(b) **NUMERICAL LIMITATION.**—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking “The number of aliens” and all that follows through the period and inserting the following: “The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.”.

(c) **REPORTS.**—

(1) **CONTENT.**—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “The Attorney General” and inserting “The Secretary of Homeland Security”; and

(ii) by striking “concerning—” and inserting “that includes—”;

(B) in subparagraph (D), by striking “and”;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting at the end the following:

“(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

“(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

“(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

“(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.”.

(2) **FORM OF REPORT.**—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

“(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.”.

**SEC. 411. L VISA LIMITATIONS.**

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (E), by striking “In the case” and inserting “Except as provided in subparagraph (H), in the case”; and

(3) by adding at the end the following:

“(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

“(I) a business plan;

“(II) sufficient physical premises to carry out the proposed business activities; and

“(III) the financial ability to commence doing business immediately upon the approval of the petition.

“(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

“(I) evidence that the importing employer meets the requirements of this subsection;

“(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

“(III) a statement summarizing the original petition;

“(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

“(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

“(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

“(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

“(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

“(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

“(X) evidence of the financial status of the new facility; and

“(XI) any other evidence or data prescribed by the Secretary.

“(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

“(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

“(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

“(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility’s existence in the United States and abroad.”.

**SEC. 412. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

**Subtitle B—Immigration Injunction Reform**  
**SEC. 421. SHORT TITLE.**

This subtitle may be cited as the “Fairness in Immigration Litigation Act of 2006”.

**SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.**

(a) **REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.**—

(1) **IN GENERAL.**—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) **WRITTEN EXPLANATION.**—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) **EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.**—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) **REQUIREMENTS FOR ORDER DENYING MOTION.**—This subsection shall apply to any order denying the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) **PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.**—

(1) **IN GENERAL.**—A court shall promptly rule on the Government’s motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) **AUTOMATIC STAYS.**—

(A) **IN GENERAL.**—The Government’s motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government’s motion.

(B) **DURATION OF AUTOMATIC STAY.**—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government’s motion.

(C) **POSTPONEMENT.**—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) **ORDERS BLOCKING AUTOMATIC STAYS.**—Any order staying, suspending, delaying, or otherwise barring the effective date of the

automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term “consent decree”—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term “good cause” does not include discovery or congestion of the court’s calendar.

(3) GOVERNMENT.—The term “Government” means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term “permanent relief” means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term “private settlement agreement” means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term “prospective relief” means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

**SEC. 423. EFFECTIVE DATE.**

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under para-

graph (1) shall continue until the court enters an order granting or denying the Government’s motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

**TITLE V—BACKLOG REDUCTION**

**SEC. 501. ELIMINATION OF EXISTING BACKLOGS.**

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

“(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

“(1) 480,000;

“(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

“(3) the difference between—

“(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

“(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.”

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

“(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

“(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

“(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

“(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

“(C) the difference between—

“(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

“(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

“(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).”

**SEC. 502. COUNTRY LIMITS.**

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking “, (4), and (5)” and inserting “and (4)”; and

(B) by striking “7 percent (in the case of a single foreign state) or 2 percent” and inserting “10 percent (in the case of a single foreign state) or 5 percent”; and

(2) by striking paragraph (5).

**SEC. 503. ALLOCATION OF IMMIGRANT VISAS.**

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

“(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to

the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

“(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

“(A) 10 percent of such worldwide level; and

“(B) any visas not required for the class specified in paragraph (4).

“(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

“(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

“(i) the spouses or children of an alien lawfully admitted for permanent residence; or

“(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

“(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

“(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

“(A) 10 percent of such worldwide level; and

“(B) any visas not required for the classes specified in paragraphs (1) and (2).

“(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.”

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “15 percent”; and

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “15 percent”; and

(3) in paragraph (3)(A)—

(A) by striking “28.6 percent” and inserting “35 percent”; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking “7.1 percent” and inserting “5 percent”; and

(7) by inserting after paragraph (4), as redesignated, the following:

“(5) OTHER WORKERS.—

“(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

“(B) PRIORITY.—In allocating visas under subparagraph (A), priority shall be given to qualified immigrants who were physically present in the United States before January 7, 2004;” and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking “subject to the numerical limitations of section 203(b)(4).”

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105-100; 8 U.S.C. 1153 note) is repealed.

**SEC. 504. RELIEF FOR MINOR CHILDREN.**

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

“(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

“(ii) In this subparagraph, the term ‘immediate relative’ means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

“(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

“(I) 2 years after such date; or

“(II) the date on which the spouse remarries.

“(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

“(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.”.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking “in the second sentence of section 201(b)(2)(A)(i) also” and inserting “in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)”.

**SEC. 505. SHORTAGE OCCUPATIONS.**

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

“(F)(i) During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

“(I) who is otherwise described in section 203(b); and

“(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

“(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.”.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking “201(b)(2)(A)(i)” and inserting “201(b)”.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting “, except for aliens described in section 201(b),” after “any fiscal year”.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not

later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

**SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.**

(a) SHORT TITLE.—This section may be cited as the “Widows and Orphans Act of 2006”.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(N) subject to subsection (j), an immigrant who is not present in the United States—

“(i) who is—

“(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

“(aa) for whom no parent or legal guardian is able to provide adequate care;

“(bb) who faces a credible fear of harm related to his or her age;

“(cc) who lacks adequate protection from such harm; and

“(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

“(ii) who is—

“(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

“(II) determined by such official to be a female who has—

“(aa) a credible fear of harm related to her sex; and

“(bb) a lack of adequate protection from such harm.”.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

“(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

“(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(i) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

“(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

“(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

“(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal

year and a summary of the reasons for granting such waivers.

“(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

“(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).”

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

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

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality

Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

#### SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking “he has no intention of abandoning, who is” and inserting the following: “except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

“(I)”;

(B) by striking “consistent with section 214(l)” and inserting “(except for a graduate program described in clause (iv)) consistent with section 214(m)”; and

(C) by striking the comma at the end and inserting the following: “; or

“(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;”

(2) in clause (ii)—

(A) by inserting “or (iv)” after “clause (i)”; and

(B) by striking “, and” and inserting a semicolon;

(3) in clause (iii), by adding “and” at the end; and

(4) by adding at the end the following:

“(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.”

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking “subparagraph (L) or (V)” and inserting “subparagraph (F)(iv), (L), or (V)”.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

“(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—”; and

(2) by adding at the end the following:

“(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

“(A) during the intended period of study in a graduate program described in such section;

“(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

“(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.”

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as non-immigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

“(A) the alien makes an application for such adjustment;

“(B) the alien is eligible to receive an immigrant visa;

“(C) the alien is admissible to the United States for permanent residence; and

“(D) an immigrant visa is immediately available to the alien at the time the application is filed.

“(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien

may file an application for adjustment of status under this section if—

“(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien’s graduation;

“(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

“(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

“(D) a fee of \$2,000 is remitted to the Secretary on behalf of the alien.

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.”.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting “and 80 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting “and 20 percent of the fees collected under section 245(a)(2)(D)” before the period at the end.

**SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.**

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a non-immigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

“(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

“(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).”.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(i) (8 U.S.C. 1182(a)(5)(A)(i)) is amended—

(1) in subclause (I), by striking “or” at the end;

(2) in subclause (II), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.”.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking “(beginning with fiscal year 1992)”; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking “each succeeding fiscal year; or” and inserting “each of fiscal years 2004, 2005, and 2006;”; and

(ii) by adding after clause (vii) the following:

“(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

“(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or”;

(2) in paragraph (5)—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(D) has earned an advanced degree in science, technology, engineering, or math.”;

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

“(9) If the numerical limitation in paragraph (1)(A)—

“(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

“(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.”.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

**SA 3486.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 20, and insert the following:

**“SEC. 105. PORTS OF ENTRY.**

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the port of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

**SEC. 106 CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.**

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona

with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct a double- or triple-layered fence

(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) (b) and (c).

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

**SA 3487.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike line 13 through page 13, line 20, and insert the following:

**“SEC. 105. PORTS OF ENTRY.**

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent, the number of ports of entry along the southwestern international border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

**SEC. 106 CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.**

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-fencing running

parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest international border to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (c)(1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) (b) and (c), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) (b) and (c).

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

**SA 3488.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 169, line 1 and 2 strike "of the criminal provisions".

**SA 3489.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:  
**SEC. 509. REQUIREMENTS FOR NATURALIZATION.**

(a) ENGLISH LANGUAGE REQUIREMENTS.—Section 312(a)(1) (8 U.S.C. 1423(a)(1)) is amended to read as follows:

"(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and"

(b) REQUIREMENT FOR HISTORY AND GOVERNMENT TESTING.—Section 312(a)(2) (8 U.S.C. 1423(a)(2)) is amended by striking the period at the end and inserting ", as demonstrated by receiving a passing score on a standardized test administered by the Secretary of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary."

**SA 3490.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, after line 16, add new Sections 3 (3); 3(4); and 3(5) that reads:

(3) BIOMETRIC.—The term "Biometric" includes the collection of, at a minimum, all 10 fingerprints from an individual, unless the individual is missing one or more of their digits, in which case the term "biometric" shall include the collection of, at a minimum, all fingerprints available.

(4) BIOMETRIC IDENTIFIER.—The term "biometric identifier" includes identifying an individual through the use of, at a minimum, fingerprint biometrics. The term does not include identification through a facial recognition biometric alone.

(5) BIOMETRIC AUTHENTICATION.—The term "biometric authentication" includes, at a minimum, authentication through the use of a fingerprint biometric.

**SA 3491.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VII—IMMIGRATION LITIGATION REDUCTION**

**SEC. 701. CONSOLIDATION OF IMMIGRATION APPEALS.**

(a) REAPPORTIONMENT OF CIRCUIT COURT JUDGES.—The table in section 44(a) of title 28, United States Code, is amended in the item relating to the Federal Circuit by striking "12" and inserting "15".

(b) REVIEW OF ORDERS OF REMOVAL.—Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (2), by striking the first sentence and inserting "The petition for review shall be filed with the United States Court of Appeals for the Federal Circuit.";

(2) in paragraph (5)(B), by adding at the end the following: "Any appeal of a decision by the district court under this paragraph shall be filed with the United States Court of Appeals for the Federal Circuit."; and

(3) in paragraph (7), by amending subparagraph (C) to read as follows:

"(C) CONSEQUENCE OF INVALIDATION AND VENUE OF APPEALS.—

"(i) INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a).

"(ii) APPEALS.—The United States Government may appeal a dismissal under clause (i) to the United States Court of Appeals for the Federal Circuit within 30 days after the date of the dismissal. If the district court rules that the removal order is valid, the defendant may appeal the district court decision to the United States Court of Appeals for the Federal Circuit within 30 days after the date of completion of the criminal proceeding."

(c) REVIEW OF ORDERS REGARDING INADMISSABLE ALIENS.—Section 242(e) (8 U.S.C. 1252(e)) is amended by adding at the end the following new paragraph:

"(6) VENUE.—The petition to appeal any decision by the district court pursuant to this subsection shall be filed with the United States Court of Appeals for the Federal Circuit."

(d) EXCLUSIVE JURISDICTION.—Section 242(g) (8 U.S.C. 1252(g)) is amended—

(1) by striking "Except"; and inserting the following:

"(1) IN GENERAL.—Except"; and

(2) by adding at the end the following:

"(2) APPEALS.—Notwithstanding any other provision of law, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review a district court order arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States, including a district court order granting or denying a petition for writ of habeas corpus."

(e) JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—

(1) EXCLUSIVE JURISDICTION.—Section 1295(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(15) of an appeal to review a final administrative order or a district court decision arising from any action taken, or proceeding brought, to remove or exclude an alien from the United States."

(2) CONFORMING AMENDMENTS.—Such section 1295(a) is further amended—

(A) in paragraph (13), by striking "and"; and

(B) in paragraph (14), by striking the period at the end and inserting a semicolon and "and".

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Court of Appeals for the Federal Circuit for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of additional attorneys for the such Court.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of this Act and shall apply to any final agency order or district court decision entered on or after the date of enactment of this Act.

**SEC. 702. CERTIFICATE OF REVIEWABILITY.**

(a) BRIEFS.—Section 242(b)(3)(C) (8 U.S.C. 1252(b)(3)(C)) is amended to read as follows:

"(C) BRIEFS.—

"(i) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available. The court may not extend this deadline except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this subparagraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(ii) UNITED STATES BRIEF.—The United States shall not be afforded an opportunity to file a brief in response to the alien's brief until a judge issues a certificate of reviewability as provided in subparagraph (D), unless the court requests the United

States to file a reply brief prior to issuing such certification.”.

(b) CERTIFICATE OF REVIEWABILITY.—Section 242(b)(3) (8 U.S.C. 1252 (b)(3)) is amended by adding at the end the following new subparagraphs:

“(D) CERTIFICATE OF REVIEWABILITY.—

“(i) After the alien has filed a brief, the petition for review shall be assigned to one judge on the Federal Circuit Court of Appeals.

“(ii) Unless such judge issues a certificate of reviewability, the petition for review shall be denied and the United States may not file a brief.

“(iii) Such judge may not issue a certificate of reviewability under clause (ii) unless the petitioner establishes a prima facie case that the petition for review should be granted.

“(iv) Such judge shall complete all action on such certificate, including rendering judgment, not later than 60 days after the date on which the judge is assigned the petition for review, unless an extension is granted under clause (v).

“(v) Such judge may grant, on the judge’s own motion or on the motion of a party, an extension of the 60-day period described in clause (iv) if—

“(I) all parties to the proceeding agree to such extension; or

“(II) such extension is for good cause shown or in the interests of justice, and the judge states the grounds for the extension with specificity.

“(vi) If no certificate of reviewability is issued before the end of the period described in clause (iv), including any extension under clause (v), the petition for review shall be denied, any stay or injunction on petitioner’s removal shall be dissolved without further action by the court or the Government, and the alien may be removed.

“(vii) If such judge issues a certificate of reviewability under clause (ii), the Government shall be afforded an opportunity to file a brief in response to the alien’s brief. The alien may serve and file a reply brief not later than 14 days after service of the Government brief, and the court may not extend this deadline except upon motion for good cause shown.

“(E) NO FURTHER REVIEW OF DECISION NOT TO ISSUE A CERTIFICATE OF REVIEWABILITY.—The decision of a judge on the Federal Circuit Court of Appeals not to issue a certificate of reviewability or to deny a petition for review, shall be the final decision for the Federal Circuit Court of Appeals and may not be reconsidered, reviewed, or reversed by the such Court through any mechanism or procedure.”.

**SA 3492.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection 644(c)(3) and insert:

(3) ENGLISH AND HISTORY AND GOVERNMENT REQUIREMENTS.— Section 312(a) is amended to read as follows:

“(a) No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

“(1) an understanding of the English language on an eighth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State; and”

“(2) a knowledge and understanding of the fundamentals of the history, and of the prin-

ciples and form of government of the United States, as demonstrated by receiving a passing score on a standardized test administered by the Secretary of the Department of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.”

**SA 3493.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 13 through 20 and insert the following:

**SEC. 105. PORTS OF ENTRY.**

To facilitate the flow of trade, commerce, tourism, and legal immigration, the Secretary shall—

(1) at locations to be determined by the Secretary, increase by at least 25 percent the number of ports of entry along the southwestern border of the United States;

(2) increase the ports of entry along the northern international land border as needed; and

(3) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

On page 13, between lines 5 and 6 insert the following:

(c) OTHER SECTORS.—

(1) REINFORCED FENCING.—The Secretary shall construct not less than 700 additional miles of double- or triple-layered fencing at strategic locations along the southwest border at strategic locations to be determined by the Secretary.

(2) PRIORITY AREAS.—In determining strategic locations under paragraph (1), the Secretary shall prioritize, to the maximum extent practicable—

(A) areas with the highest illegal alien apprehension rates; and

(B) areas with the highest human and drug trafficking rates, in the determination of the Secretary.

On page 13, line 6, strike “(c)” and insert “(d)”.

On page 13, line 11, strike “(d)” and insert “(e)”.

On page 13, line 18, strike “(e)” and insert “(f)”.

**SA 3494.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, strike lines 9 through 12, and insert the following:

“(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than \$1,000.

**SA 3495.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 4 and all that follows through 350, line 21, and insert the following:

“(i) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

“(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

“(3) CRIMINAL PENALTY.—Any person who knowingly uses, discloses, or allows to be disclosed information in violation of this subsection shall be fined not more than \$1,000.

**SA 3496.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.**

No alien granted legal status under this Act or an amendment made by this Act shall be granted any public benefit as a result of the changed status of the alien, including any cash or non-cash assistance, postsecondary educational assistance, housing assistance, daycare assistance, food stamps, Medicaid, or other individual public assistance, whether or not receipt of the public assistance would be sufficient for the person to be considered a public charge under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)).

**SA 3497.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 5 and all that follows through 350, line 21, and insert the following:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may use the information filed by the applicant under this section for any purpose other than the enforcement and administration of the immigration laws.

**SA 3498.** Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 241, strike lines 13 and 14 and insert the following:

“(A) paragraphs (5) and (7) of section 212(a) may be waived for

**SA 3499.** Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through line 14, and insert the following:

“(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)).”

**SA 3500.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 355, strike lines 7 through line 14, and insert the following:

“(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in status under this Title shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)), for the first 5 years after status under this Title is attained.”

**SA 3501.** Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.**

(a) **SHORT TITLE.**—This section may be cited as the “Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006”.

(b) **PURPOSE.**—The purpose of this section is to establish a grant program within the Bureau of Citizenship and Immigration Services that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for the conditional nonimmigrant worker program established under this Act by providing them with the services described in subsection (d)(2).

(c) **DEFINITIONS.**—In this section:

(1) **COMMUNITY-BASED ORGANIZATION.**—The term “community-based organization” means a nonprofit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or persons applying for such statuses.

(2) **IEACA GRANT.**—The term “IEACA grant” means an Initial Entry, Adjustment, and Citizenship Assistance Grant authorized under subsection (d).

(d) **ESTABLISHMENT OF INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.**—

(1) **GRANTS AUTHORIZED.**—The Secretary, working through the Director of the Bureau of Citizenship and Immigration Services, may award IEACA grants to community-based organizations.

(2) **USE OF FUNDS.**—Grants awarded under this section may be used for the design and

implementation of programs to provide the following services:

(A) **INITIAL APPLICATION.**—Assistance and instruction, including legal assistance, to aliens making initial application for treatment under the program established by section 218D of the Immigration and Nationality Act, as added by section 601. Such assistance may include assisting applicants in—

(i) screening to assess prospective applicants’ potential eligibility or lack of eligibility;

(ii) filling out applications;

(iii) gathering proof of identification, employment, residence, and tax payment;

(iv) gathering proof of relationships of eligible family members;

(v) applying for any waivers for which applicants and qualifying family members may be eligible; and

(vi) any other assistance that the Secretary or grantee considers useful to aliens who are interested in filing applications for treatment under such section 218D.

(B) **ADJUSTMENT OF STATUS.**—Assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 245 or 245B of the Immigration and Nationality Act.

(C) **CITIZENSHIP.**—Assistance and instruction to applicants on—

(i) the rights and responsibilities of United States Citizenship;

(ii) English as a second language;

(iii) civics; or

(iv) applying for United States citizenship.

(3) **DURATION AND RENEWAL.**—

(A) **DURATION.**—Each grant awarded under this section shall be awarded for a period of not more than 3 years.

(B) **RENEWAL.**—The Secretary may renew any grant awarded under this section in 1-year increments.

(4) **APPLICATION FOR GRANTS.**—Each entity desiring an IEACA grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(5) **ELIGIBLE ORGANIZATIONS.**—A community-based organization applying for a grant under this section to provide services described in subparagraph (A), (B), or (C)(iv) of paragraph (2) may not receive such a grant unless the organization is—

(A) recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) otherwise directed by an attorney.

(6) **SELECTION OF GRANTEEES.**—Grants awarded under this section shall be awarded on a competitive basis.

(7) **GEOGRAPHIC DISTRIBUTION OF GRANTS.**—The Secretary shall approve applications under this section in a manner that ensures, to greatest extent practicable, that—

(A) not less than 50 percent of the funding for grants under this section are awarded to programs located in the 10 States with the highest percentage of foreign-born residents; and

(B) not less than 20 percent of the funding for grants under this section are awarded to programs located in States that are not described in subparagraph (A).

(8) **ETHNIC DIVERSITY.**—The Secretary shall ensure that community-based organizations receiving grants under this section provide services to an ethnically diverse population, to the greatest extent possible.

(e) **LIAISON BETWEEN USCIS AND GRANTEEES.**—The Secretary shall establish a liaison between the Bureau of Citizenship and Immigration Services and the community of providers of services under this section to assure quality control, efficiency, and greater client willingness to come forward.

(f) **REPORTS TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and each subsequent July 1, the Secretary shall submit a report to Congress that includes information regarding—

(1) the status of the implementation of this section;

(2) the grants issued pursuant to this section; and

(3) the results of those grants.

(g) **SOURCE OF GRANT FUNDS.**—

(1) **APPLICATION FEES.**—The Secretary may use funds made available under sections 218A(1)(2) and 218D(f)(4)(B) of the Immigration and Nationality Act, as added by this Act, to carry out this section.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—

(A) **AMOUNTS AUTHORIZED.**—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such additional sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

(B) **AVAILABILITY.**—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(h) **DISTRIBUTION OF FEES AND FINES.**—

(1) **H-2C VISA FEES.**—Notwithstanding section 218A(1) of the Immigration and Nationality Act, as added by section 403, 2 percent of the fees collected under section 218A of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

(2) **CONDITIONAL NONIMMIGRANT VISA FEES AND FINES.**—Notwithstanding section 218D(f)(4) of the Immigration and Nationality Act, as added by section 601, 2 percent of the fees and fines collected under section 218D of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

**SA 3502.** Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

(13) **AGREEMENT TO COLLECT PERCENTAGE OF WAGES TO OFFSET COST OF EMERGENCY HEALTH SERVICES FURNISHED TO UNINSURED H-2C NON-IMMIGRANTS.**—The employer shall collect an amount equal to 1.45 percent of the wages paid by the employer to any H-2C non-immigrant and shall transmit such amount to the Secretary of the Treasury for deposit into the H-2C Nonimmigrant Health Services Trust Fund established under section 404(c) of the Comprehensive Immigration Reform Act of 2006 at such time and in such manner as the Secretary of the Treasury shall determine.

On page 266, after line 22, add the following:

(c) **H-2C NONIMMIGRANT HEALTH SERVICES TRUST FUND.**—

(1) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the “H-2C Nonimmigrant Health Services Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this subsection or under rules similar to the rules of section 9602 of the Internal Revenue Code of 1986.

(2) **TRANSFERS TO TRUST FUND.**—There are hereby appropriated to the H-2C Non-immigrant Health Services Trust Fund amounts equivalent to the amounts received by the Secretary of the Treasury as a result of the provisions of section 218B(b)(13) of the Immigration and Nationality Act.

(3) EXPENDITURES FROM TRUST FUND.—Amounts in the H-2C Nonimmigrant Health Services Trust Fund shall be available only for making payments by the Secretary of Health and Human Services out of the State allotments established in accordance with paragraph (4) directly to eligible providers for the provision of eligible services to H-2C nonimmigrants to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services, as determined by such Secretary. Such payments shall be made under rules similar to the rules for making payments to eligible providers under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(4) STATE ALLOTMENTS.—Not later than January 1 of each year, the Secretary of Health and Human Services shall establish an allotment for each State equal to the product of—

(A) the total amount the Secretary of the Treasury notifies the Secretary of Health and Human Services was appropriated or credited to the H-2C Nonimmigrant Health Services Trust Fund during the preceding year; and

(B) the number of H-2C nonimmigrants employed in the State during such preceding year (as determined by the Secretary of Labor).

(5) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PROVIDER; ELIGIBLE SERVICES.—The terms “eligible provider” and “eligible services” have the meanings given those terms in section 1011(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(B) H-2C NONIMMIGRANT.—The term “H-2C nonimmigrant” has the meaning given that term in section 218A(n)(7) of the Immigration and Nationality Act.

**SA 3503.** Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 303, strike line 7 and all that follows through page 304, line 5, and insert the following:

“(A)(i) for each of fiscal years 2007 through 2016, 450,000; or

“(ii) for fiscal year 2017 and each subsequent fiscal year, 290,000; and

“(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

“(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

“(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

“(B) ADDITIONAL NUMBER.—

“(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

“(I) the difference between—

“(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

“(bb) the number of employment-based visas actually used during that period; and

“(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that

were counted for purposes of paragraph (1)(B).

“(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.”.

On page 304, strike lines 6 through 15 and insert the following:

**SEC. 502. COUNTRY LIMITS.**

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking “7 percent (in the case of a single foreign state) or 2 percent” and inserting “10 percent (in the case of a single foreign state) or 5 percent”.

On page 329, strike lines 1 through 4 and insert the following:

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

“(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

“(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

“(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

“(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

“(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.”.

Beginning on page 329, strike line 23 and all that follows through page 330, line 4, and insert the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 333, after line 5, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106-313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

“(b) EXTENSION OF H-1B WORKER STATUS.—The Attorney General shall—

“(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

“(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.”.

**SA 3504.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert “(other than subparagraph (C)(i)(II) of such paragraph (9))” after “212(a)”.

At the appropriate place, insert the following:

this paragraph to waive the provisions of section 212(a).

“(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

“(A) the Secretary of Homeland Security determines that—

“(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

“(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

“(B) the alien has been convicted of any felony or three or more misdemeanors; or

**SA 3505.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . BORDER SECURITY CERTIFICATION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), beginning on the date of enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who illegally enters or entered the United States, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States, until the Secretary provides written certification to the President and Congress that the borders of the United States are reasonably sealed and secured.

(b) WAIVER AND IMPLEMENTATION.—The President may waive the certification requirement under subsection (a) and direct the Secretary to implement a new conditional nonimmigrant work authorization program or any similar or subsequent program described in that subsection, if the President determines that implementation of the program would strengthen the national security of the United States.

**SA 3506.** Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section under any of the following circumstances:

**“(A) CONVICTION OF CERTAIN CRIMES.—**

“(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

“(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

“(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

“(I) the crime was committed before the alien reached 18 years of age and the alien was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

“(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

“(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

“(i) the conviction was in a single trial;

“(ii) the offenses arose from a single scheme of misconduct; or

“(iii) the offenses involved moral turpitude, .

“(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) is or has been—

“(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

“(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

“(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

“(ii) exercised immunity from criminal jurisdiction with respect to that offense;

“(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

“(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

“(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

“(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

“(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

“(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

“(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

“(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

“(H) CRIMINAL CONVICTIONS.—The alien has been convicted of any felony or at least 3 misdemeanors.

**SA 3507.** Mr. REID (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(6) CRIMINAL AND RELATED GROUNDS.—An alien is ineligible for conditional non-immigrant work authorization and status under this section under any of the following circumstances:

“(A) CONVICTION OF CERTAIN CRIMES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the alien was convicted of, admits having committed, or admits having committed acts which constitute the essential elements of—

“(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

“(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only 1 crime if—

“(I) the crime was committed before the alien reached 18 years of age and the alien

was released from any confinement to a prison or correctional institution imposed for the crime more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

“(II) the maximum allowable penalty for the crime for which the alien was convicted, admits having committed, or admits having committed the acts constituting the essential elements of, is not longer than imprisonment for 1 year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment longer than 6 months (regardless of the extent to which the sentence was ultimately executed).

“(B) MULTIPLE CRIMINAL CONVICTIONS.—The alien has been convicted of 2 or more offenses (other than purely political offenses) for which the aggregate sentences to confinement were 5 years or more, regardless of whether—

“(i) the conviction was in a single trial;

“(ii) the offenses arose from a single scheme of misconduct; or

“(iii) the offenses involved moral turpitude, .

“(C) CONTROLLED SUBSTANCE TRAFFICKERS.—The consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) is or has been—

“(I) an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(II) a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien ineligible under clause (i), and has—

“(I) during the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(D) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—The alien—

“(i) has committed a serious criminal offense (as defined in section 101(h)) in the United States;

“(ii) exercised immunity from criminal jurisdiction with respect to that offense;

“(iii) as a consequence of the offense and exercise of immunity, has departed from the United States; and

“(iv) has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense.

“(E) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The alien, while serving as a foreign government official, was responsible for, or directly carried out, at any time, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402)).

“(F) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—The alien is listed in a report submitted under section 111(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(b)) or the consular officer or the Attorney General knows or has reason to believe that the alien is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons (as defined in the section 103 of such Act (22 U.S.C. 7102)).

“(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), the consular

officer or the Attorney General knows or has reason to believe that the alien is the spouse, son, or daughter of an alien ineligible under clause (i), and the alien—

“(I) within the previous 5 years, has obtained any financial or other benefit from the illicit activity of that alien; and

“(II) knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

“(G) MONEY LAUNDERING.—A consular officer or the Attorney General knows, or has reason to believe, that the alien—

“(i) has engaged, is engaging, or seeks to enter the United States to engage, in an offense described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

“(ii) is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense referred to in clause (i).

**SA 3508.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, lines 7 and 8, strike “, when such information is requested in writing by such entity”.

**SA 3509.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, strike lines 9 through 12.

**SA 3510.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

On page 351, beginning on line 7, strike “, when such” and all that follows through line 12, and insert a period.

**SA 3511.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 350, strike line 4 and all that follows through “(f)” on page 351, line 13, and insert “(e)”.

**SA 3512.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 339, strike lines 7 through 22, and insert the following:

“(E) PAYMENT OF INCOME TAXES.—

“(i) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of all

applicable Federal income tax liability by establishing that—

“(I) no such tax liability exists;

“(II) all outstanding liabilities have been paid; or

“(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

“(ii) APPLICABLE FEDERAL INCOME TAX LIABILITY.—For purposes of clause (i), the term ‘applicable Federal income tax liability’ means liability for Federal income taxes owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

“(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

**SA 3513.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 399, strike lines 6 through 25, and insert the following:

(D) PAYMENT OF INCOME TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien’s status is adjusted under this subsection, the alien shall establish the payment of all applicable Federal income tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL INCOME TAX LIABILITY.—For purposes of clause (i), the term ‘applicable Federal income tax liability’ means liability for Federal income taxes owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

**SA 3514.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 341, line 16, strike “90” and insert “180”.

**SA 3515.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 340, strike “alien—” and all that follows through line 15, and insert the following “alien meets the requirements of section 312.”.

**SA 3516.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 332, line 7, strike the semicolon at the end and all that follows through line 24 and insert a period.

**SA 3517.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . H-1B EMPLOYER FEE.**

Section 214(c)(9)(B) (8 U.S.C. 1184(c)(9)(B)) is amended by striking “\$1,500” and inserting “\$2,000”.

**SA 3518.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. . NATIONAL CENTER FOR WELCOMING NEW AMERICANS.**

(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, may establish the National Center for Welcoming New Americans, an organization duly established at the University of Northern Iowa.

(b) PURPOSES.—The purposes of the National Center for Welcoming New Americans shall be—

(1) to promote the integration of new immigrants and refugees in communities, institutions, faith-based organizations, and workplaces;

(2) to provide training to new immigrants and refugees with respect to culturally appropriate social and health services;

(3) to create publications for new immigrants and refugees, United States citizens, and institutions; and

(4) to establish a national clearinghouse to collect and disseminate information relating to best practices in immigrant integration in the United States and abroad.

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

**SA 3519.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . OFFICE OF INTERNAL CORRUPTION INVESTIGATION.**

(a) INTERNAL CORRUPTION; BENEFITS FRAUD.—Section 453 of the Homeland Security Act of 2002 (6 U.S.C. 273) is amended—

(1) by striking “the Bureau of” each place it appears and inserting “United States”;

(2) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) establishing the Office of Internal Corruption Investigation, which shall—

“(A) receive, process, administer, and investigate criminal and noncriminal allegations of misconduct, corruption, and fraud involving any employee or contract worker of United States Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

“(B) ensure that all complaints alleging any violation described in subparagraph (A) are handled and stored in a manner appropriate to their sensitivity;

“(C) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to United States Citizenship and Immigration Services, which relate to programs and operations for which the Director is responsible under this Act;

“(D) request such information or assistance from any Federal, State, or local governmental agency as may be necessary for carrying out the duties and responsibilities under this section;

“(E) require the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to carry out the functions under this section—

“(i) by subpoena, which shall be enforceable, in the case of contumacy or refusal to obey, by order of any appropriate United States district court; or

“(ii) through procedures other than subpoenas if obtaining documents or information from Federal agencies;

“(F) administer to, or take from, any person an oath, affirmation, or affidavit, as necessary to carry out the functions under this section, which oath, affirmation, or affidavit, if administered or taken by or before an agent of the Office of Internal Corruption Investigation shall have the same force and effect as if administered or taken by or before an officer having a seal;

“(G) investigate criminal allegations and noncriminal misconduct;

“(H) acquire adequate office space, equipment, and supplies as necessary to carry out the functions and responsibilities under this section; and

“(I) be under the direct supervision of the Director.”;

(B) in paragraph (2), by striking “and” at the end;

(C) in paragraph (3), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(4) establishing the Office of Immigration Benefits Fraud Investigation, which shall—

“(A) conduct administrative investigations, including site visits, to address immigration benefit fraud;

“(B) assist United States Citizenship and Immigration Services provide the right benefit to the right person at the right time;

“(C) track, measure, assess, conduct pattern analysis, and report fraud-related data to the Director; and

“(D) work with counterparts in other Federal agencies on matters of mutual interest or information-sharing relating to immigration benefit fraud.”; and

(3) by adding at the end the following:

“(c) ANNUAL REPORT.—The Director, in consultation with the Office of Internal Corruption Investigations, 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 describes—

“(1) the activities of the Office, including the number of investigations began, completed, pending, turned over to the Inspector General for criminal investigations, and

turned over to a United States Attorney for prosecution; and

“(2) the types of allegations investigated by the Office during the 12-month period immediately preceding the submission of the report that relate to the misconduct, corruption, and fraud described in subsection (a)(1).”.

(b) USE OF IMMIGRATION FEES TO COMBAT FRAUD.—Section 286(v)(2)(B) (8 U.S.C. 1356(v)(2)(B)) is amended by adding at the end the following: “Not less than 20 percent of the funds made available under this subparagraph shall be used for activities and functions described in paragraphs (1) and (4) of section 453(a) of the Homeland Security Act of 2002 (6 U.S.C. 273(a)).”.

**SA 3520.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 283, line 21, strike “visa—” and all that follows through line 25, and insert “visa by the alien’s employer.”.

**SA 3521.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 358, strike “\$2,000” in line 17 and insert “\$5,000”.

**SA 3522.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 359, strike “be eligible to” in line 19.

**SA 3523.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 362, strike lines 20–22

**SA 3524.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 364, strike “may” in line 21 and “be” in line 22, and insert “shall”.

**SA 3525.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 373, strike “\$2,000” in line 19 and insert “\$5,000”.

On page 373, strike “\$3,000” in line 22 and insert “\$10,000”.

**SA 3526.** Mr. GRASSLEY submitted an amendment intended to be proposed

by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 20 and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, autonomous unmanned ground vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, autonomous unmanned ground vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

**SA 3527.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 390, strike line 15 and all that follows through page 394, line 17.

**SA 3528.** Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . BORDER SECURITY ON CERTAIN FEDERAL LAND.**

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term “protected land” means land under the jurisdiction of the Secretary concerned.

(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.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

- (1) units of the National Park System;
- (2) land under the jurisdiction of the United States Fish and Wildlife Service; and
- (3) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

**SA 3529.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 389, line 18, strike “100” and insert “\$1000”.

**SA 3530.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 388, lines 8 and 9, strike “3 or more misdemeanors” and insert “misdemeanor”.

**SA 3531.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 386, line 11, strike “863 hours or”.

**SA 3532.** Mr. CHAMBLISS submitted an amendment intended to be proposed

by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 397, line 19, strike “\$400” and insert “\$1000”.

**SA 3533.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 385, line 22, strike “1” and insert “8”.

**SA 3534.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 409, strike line 13 and all that follows through line 19 on page 409.

**SA 3535.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 426, strike line 6 and all that follows through line 23 on page 427.

**SA 3536.** Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BROWNBAC) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 439, strike line 24 and all that follows through line 19 on page 442, and insert the following:

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the applicable State minimum wage.”.

**SA 3537.** Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 395, strike line 10 and all that follows through page 416, line 11 and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—  
(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph

(2), the alien may apply for any non-immigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant Visa outside the United States.

**SA 3538.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 4, insert “autonomous unmanned ground vehicles,” after “vehicles.”.

On page 9, line 16, insert “autonomous unmanned ground vehicles,” after “vehicles.”.

**SA 3539.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

**SEC. 305. EMPLOYEE IDENTITY THEFT PREVENTION AND PRIVACY PROTECTION.**

(a) FINDINGS.—

(1) According to the Federal Trade Commission, more than 8,400,000 Americans were victims of identity theft in 2004, and according to published reports approximately 55,000,000 Americans’ most sensitive, personally identifiable information was accidentally made public through a data breach during 2005.

(2) Approximately 54,000,000 times each year, someone in America begins a new job and full implementation of the System will require transfer of data to verify the identity and authorization of each potential new employee.

(3) The data transferred through the System or stored in the databases utilized to verify identity and authorization will contain each employee’s most sensitive, personally identifiable information.

(4) The information transferred and stored will be of uniquely high value to any potential identity thief, nonwork authorized undocumented alien, alien smuggler, or terrorist seeking to establish work authorization under another’s name.

(5) The System should not be implemented or expanded unless it sufficiently protects against identity theft and safeguards employees’ personal privacy.

(b) PRIVACY PROTECTIONS IN THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 301(a), is further amended by adding at the end of subsection (d)(2) the following new subparagraphs:

“(H) LIMITATION ON DATA ELEMENTS COLLECTED FOR VERIFICATION PROCESS.—Employers utilizing the System shall obtain only

the following data elements from any employee:

- “(i) The employee’s full legal name.
- “(ii) The employee’s date of birth.
- “(iii) The employee’s social security account number or other employment authorization status identification number.

“(I) LIMITATION ON DATA ELEMENTS STORED.—The System and any databases created by the Commissioner of Social Security or the Secretary to achieve confirmation, tentative nonconfirmation, or final nonconfirmation of employment eligibility for an individual shall store only the minimum data about each individual for whom an inquiry was made to facilitate the successful operation of the System, but in no case shall the data stored be other than—

- “(i) the individual’s full legal name;
- “(ii) the individual’s date of birth;
- “(iii) the individual’s social security account number or other employment authorization status identification number;
- “(iv) the address of the employer making the inquiry;
- “(v) the dates of any prior inquiries concerning the identity and eligibility of the employee by the employer or any other employers and the address of any such employer;

“(vi) records of any prior confirmations, tentative nonconfirmations, or final nonconfirmations issued under the System for the individual; and

“(vii) in the case of an employee successfully challenging a prior tentative nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity of the employee, including the source of that error.

“(J) LIMITATION OF SYSTEM USE OR INFORMATION TRANSFER.—Only individuals employed by the Commissioner of Social Security or the Secretary to implement and operate the System shall be permitted access to the System and any information in the databases queried to determine identity and employment authorization. It shall be unlawful for any other person to access the System or such databases or obtain information from the System or database. Information stored in the Systems or such databases may not be transferred to or shared with any Federal, State, or local government officials for any purpose other than preventing unauthorized workers from obtaining employment.

“(K) PROTECTION AGAINST UNLAWFUL INTERCEPTION AND DATA BREACHES.—The Commissioner of Social Security and the Secretary shall protect against unauthorized disclosure of the information transferred between employers, the Commissioner, and the Secretary and between the Commissioner and the Secretary by requiring that all information transmitted be encrypted.

“(L) ROBUST COMPUTER SYSTEM AND SOFTWARE SECURITY.—The Commissioner of Social Security and the Secretary shall employ robust, state-of-the-art computer system and software security to prevent hacking of the System or the databases employed.

“(M) SYSTEM SECURITY TESTING.—

“(i) REQUIREMENT FOR TESTING.—The Commissioner of Social Security and the Secretary shall require periodic stress testing of the System to determine if the System contains any vulnerabilities to data loss or theft or improper use of data. Such testing shall occur not less often than prior to each phase-in expansion of the System.

“(ii) REQUIREMENT TO REPAIR VULNERABILITIES.—Any computer vulnerabilities identified under clause (i) or through any other process shall be resolved prior to initial implementation or any subsequent expansion of the System.

“(iii) REQUIREMENT TO UPDATE.—The Secretary shall regularly update the System to ensure that the data protections in the System remains consistent with the state-of-the-art for databases of similarly sensitive personally identifiable information.

“(N) PROHIBITION OF UNLAWFUL ACCESSING AND OBTAINING OF INFORMATION.—

“(i) IMPROPER ACCESS.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly access the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully accesses the System or the databases or shall be fined no less than \$1,000 for each individual whose file was compromised or sentenced to less than 6 months imprisonment for each individual whose file was compromised.

“(ii) IDENTITY THEFT.—It shall be unlawful for any individual, other than the government employees authorized in this subsection, to intentionally and knowingly obtain the information concerning an individual stored in the System or the databases utilized to verify identity or employment authorization for the System for any purpose other than verifying identity or employment authorization or modifying the System pursuant to law or regulation. Any individual who unlawfully obtains such information and uses it to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, shall be fined no less than \$10,000 for each individual whose information was obtained and misappropriated sentenced to not less than 1 year of imprisonment for each individual whose information was obtained and misappropriated.

“(O) OFFICE OF EMPLOYEE PRIVACY.—

“(i) ESTABLISHMENT.—The Commissioner of Social Security and the Secretary shall establish a joint Office of Employee Privacy that shall be empowered to protect the rights of employees subject to verification under the System.

“(ii) AUTHORITY TO INVESTIGATE.—The Office of Employee Privacy shall investigate alleged privacy violations concerning failure of the Commissioner or the Secretary to satisfy the requirements of subparagraphs (H) through (Q) of this paragraph and any data breaches that may occur pursuant to the implementation and operation of the System.

“(iii) AUTHORITY TO ISSUE SUBPOENAS.—The head of the Office of Employee Privacy may issue subpoenas for a document or a person to facilitate an investigation.

“(iv) ANNUAL REPORT TO CONGRESS.—The head of the Office of Employee Privacy shall submit to Congress an annual report concerning the operation of the System.

“(v) ANNUAL REPORT ON INCORRECT NOTICES.—The head of the Office of Employee Privacy shall, at least annually, study and issue findings concerning the most common causes of the incorrect issuance of nonconfirmation notices under the System. Such report shall include recommendations for preventing such incorrect notices.

“(vi) AVAILABILITY OF REPORTS.—The head of the Office of Employee Privacy shall make available to the public any report issued by the Office concerning findings of an investigation conducted by the Office.

“(vii) REQUIREMENT FOR HOTLINE.—The head of the Office of Employee Privacy shall establish a fully staffed 24-hour hotline to receive inquiries by employees concerning tentative nonconfirmations and final nonconfirmations and shall identify for employees, at the time of inquiry, the particularity data

that resulted in the issuance of a nonconfirmation notice under the System.

“(viii) CERTIFICATION BY GAO.—The Secretary may not implement the System or any subsequent expansion or phase-in of the System unless the Comptroller General of the United States certifies that the Office of Employee Privacy has hired sufficient employees to answer employee inquiries and respond in real time concerning the particular data that resulted in the issuance of a nonconfirmation notice.

“(ix) TRAINING IN PRIVACY PROTECTION.—The head of the Office of Employee Privacy shall train any employee of the Social Security Administration or the Department of Homeland Security who implements or operates the System concerning the importance of and means of utilizing best practices for protecting employee privacy while utilizing and operating the System.

“(P) AUDITS OF DATA ACCURACY.—The Commissioner of Social Security and the Secretary shall randomly audit a substantial percentage of both citizens and work-eligible noncitizens files utilized to verify identity and authorization for the System each year to determine accuracy rates and shall require correction of errors in a timely fashion.

“(Q) EMPLOYEE RIGHT TO REVIEW SYSTEM INFORMATION AND APPEAL ERRONEOUS NONCONFIRMATIONS.—Any employee who contests a tentative nonconfirmation notice or final nonconfirmation notice may review and challenge the accuracy of the data elements and information in the System that resulted in the issuance of the nonconfirmation notice. Such a challenge may include the ability to submit additional information or appeal any final nonconfirmation notice to the Office of Employee Privacy. The head of the Office of Employee Privacy shall review any such information submitted pursuant to such a challenge and issue a response and decision concerning the appeal within 7 days of the filing of such a challenge.”

**SA 3540.** Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V of the amendment, insert the following:

**SEC. 2. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.**

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

“(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

“(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

“(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed on the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.”

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such

Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; and

(B) 1 year after the date on which final regulations implementing this section are promulgated.

(2) **MOTIONS TO REOPEN.**—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under subsection (a).

(3) **RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.**—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under paragraph (1), or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

**SEC. 3. INADMISSIBILITY DETERMINATION.**

Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting “(6)(C)(i),” after “(6)(A).”

**SA 3541.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 329, line 11, insert “(other than subparagraph (C)(i)(II) of such paragraph (9))” after “212(a)”.

On page 330, strike lines 8 through 15, and insert the following: this paragraph to waive the provisions of section 212(a).

“(3) **INELIGIBILITY.**—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

“(A) the Secretary of Homeland Security determines that—

“(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

“(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

“(B) the alien has been convicted of any felony or three or more misdemeanors; or

**SA 3542.** Mr. THOMAS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purpose; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . BORDER SECURITY ON CERTAIN FEDERAL LAND.**

(a) **DEFINITIONS.**—In this section:

(1) **PROTECTED LAND.**—The term “protected land” means land under the jurisdiction of the Secretary concerned.

(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.**—

(1) **IN GENERAL.**—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) **COORDINATION.**—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) **INVENTORY OF COSTS AND ACTIVITIES.**—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) **RECOMMENDATIONS.**—The Secretary shall—

(1) develop joint recommendations with the National Park Service and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) **BORDER PROTECTION STRATEGY.**—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) land under the jurisdiction of the United States Fish and Wildlife Service; and

(3) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

**SA 3543.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through the end, and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Comprehensive Immigration Reform Act of 2006”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to the Immigration and Nationality Act.
- Sec. 3. Definitions.
- Sec. 4. Severability.

**TITLE I—BORDER ENFORCEMENT**

**Subtitle A—Assets for Controlling United States Borders**

- Sec. 101. Enforcement personnel.
- Sec. 102. Technological assets.
- Sec. 103. Infrastructure.
- Sec. 104. Border patrol checkpoints.
- Sec. 105. Ports of entry.
- Sec. 106. Construction of strategic border fencing and vehicle barriers.

**Subtitle B—Border Security Plans, Strategies, and Reports**

- Sec. 111. Surveillance plan.
- Sec. 112. National Strategy for Border Security.
- Sec. 113. Reports on improving the exchange of information on North American security.
- Sec. 114. Improving the security of Mexico’s southern border.
- Sec. 115. Combating human smuggling.

**Subtitle C—Other Border Security Initiatives**

- Sec. 121. Biometric data enhancements.
- Sec. 122. Secure communication.
- Sec. 123. Border patrol training capacity review.
- Sec. 124. US-VISIT System.
- Sec. 125. Document fraud detection.
- Sec. 126. Improved document integrity.
- Sec. 127. Cancellation of visas.
- Sec. 128. Biometric entry-exit system.
- Sec. 129. Border study.
- Sec. 130. Secure border initiative financial accountability.
- Sec. 131. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 132. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.

**Subtitle D—Border Tunnel Prevention Act**

- Sec. 141. Short title.
- Sec. 142. Construction of border tunnel or passage.
- Sec. 143. Directive to the United States Sentencing Commission.

**TITLE II—INTERIOR ENFORCEMENT**

- Sec. 201. Removal and denial of benefits to terrorist aliens.
- Sec. 202. Detention and removal of aliens ordered removed.
- Sec. 203. Aggravated felony.
- Sec. 204. Terrorist bars.
- Sec. 205. Increased criminal penalties related to gang violence, removal, and alien smuggling.
- Sec. 206. Illegal entry.
- Sec. 207. Illegal reentry.
- Sec. 208. Reform of passport, visa, and immigration fraud offenses.
- Sec. 209. Inadmissibility and removal for passport and immigration fraud offenses.
- Sec. 210. Incarceration of criminal aliens.
- Sec. 211. Encouraging aliens to depart voluntarily.
- Sec. 212. Deterring aliens ordered removed from remaining in the United States unlawfully.
- Sec. 213. Prohibition of the sale of firearms to, or the possession of firearms by certain aliens.
- Sec. 214. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.

- Sec. 215. Diplomatic security service.  
 Sec. 216. Field agent allocation and background checks.  
 Sec. 217. Construction.  
 Sec. 218. State criminal alien assistance program.  
 Sec. 219. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.  
 Sec. 220. Reducing illegal immigration and alien smuggling on tribal lands.  
 Sec. 221. Alternatives to detention.  
 Sec. 222. Conforming amendment.  
 Sec. 223. Reporting requirements.  
 Sec. 224. State and local enforcement of Federal immigration laws.  
 Sec. 225. Removal of drunk drivers.  
 Sec. 226. Medical services in underserved areas.  
 Sec. 227. Expedited removal.  
 Sec. 228. Protecting immigrants from convicted sex offenders.  
 Sec. 229. Law enforcement authority of States and political subdivisions and transfer to Federal custody.  
 Sec. 230. Laundering of monetary instruments.  
 Sec. 231. Listing of immigration violators in the National Crime Information Center database.  
 Sec. 232. Cooperative enforcement programs.  
 Sec. 233. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.  
 Sec. 234. Determination of immigration status of individuals charged with Federal offenses.

#### TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

- Sec. 301. Unlawful employment of aliens.  
 Sec. 302. Employer Compliance Fund.  
 Sec. 303. Additional worksite enforcement and fraud detection agents.  
 Sec. 304. Clarification of ineligibility for misrepresentation.

#### TITLE IV—TEMPORARY WORKER PROGRAMS AND VISA REFORM

##### Subtitle A—Requirements for Participating Countries

- Sec. 401. Requirements for participating countries.

##### Subtitle B—Nonimmigrant Temporary Worker Program

- Sec. 411. Nonimmigrant temporary worker category.  
 Sec. 412. Temporary worker program.  
 Sec. 413. Statutory construction.  
 Sec. 414. Authorization of appropriations.

##### Subtitle C—Mandatory Departure and Reentry in Legal Status

- Sec. 421. Mandatory departure and reentry in legal status.  
 Sec. 422. Statutory construction.  
 Sec. 423. Authorization of appropriations.

##### Subtitle D—Alien Employment Management System

- Sec. 431. Alien employment management system.  
 Sec. 432. Labor investigations.

##### Subtitle E—Protection Against Immigration Fraud

- Sec. 441. Grants to Support Public Education and Training.

##### Subtitle F—Circular Migration

- Sec. 451. Investment accounts.

##### Subtitle G—Backlog Reduction

- Sec. 461. Employment based immigrants.  
 Sec. 462. Country limits.  
 Sec. 463. Allocation of immigrant visas.

#### Subtitle H—Temporary Agricultural Workers

- Sec. 471. Sense of the Senate on temporary agricultural workers.

#### SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

#### SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term “Department” means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

#### SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

### TITLE I—BORDER ENFORCEMENT

#### Subtitle A—Assets for Controlling United States Borders

##### SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking “800” and inserting “1000”.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

##### “SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

“(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

“(1) 2,000 in fiscal year 2006;

“(2) 2,400 in fiscal year 2007;

“(3) 2,400 in fiscal year 2008;

“(4) 2,400 in fiscal year 2009;

“(5) 2,400 in fiscal year 2010; and

“(6) 2,400 in fiscal year 2011;

“(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.”.

##### SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

##### SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

**SEC. 104. BORDER PATROL CHECKPOINTS.**

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

**SEC. 105. PORTS OF ENTRY.**

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

**SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.**

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

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

**Subtitle B—Border Security Plans,  
Strategies, and Reports**

**SEC. 111. SURVEILLANCE PLAN.**

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

**SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.**

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, non-governmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

**SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.**

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security,

technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

- (i) passports;
- (ii) visas; and
- (iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

- (i) application process;
- (ii) interview policy;
- (iii) general screening procedures;
- (iv) visa validity;
- (v) quality control measures; and
- (vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and

the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

#### SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and

Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109-102; 119 Stat. 2218).

#### SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

**Subtitle C—Other Border Security Initiatives**  
**SEC. 121. BIOMETRIC DATA ENHANCEMENTS.**

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

**SEC. 122. SECURE COMMUNICATION.**

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

**SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

**SEC. 124. US-VISIT SYSTEM.**

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

**SEC. 125. DOCUMENT FRAUD DETECTION.**

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

**SEC. 126. IMPROVED DOCUMENT INTEGRITY.**

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in the heading, by striking “ENTRY AND EXIT DOCUMENTS” and inserting “TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS”;

(3) in subsection (b)(1)—

(A) by striking “Not later than October 26, 2004, the” and inserting “The”; and

(B) by striking “visas and” both places it appears and inserting “visas, evidence of status, and”;

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

“(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.”.

**SEC. 127. CANCELLATION OF VISAS.**

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) by inserting “and any other non-immigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and

(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality” and inserting “(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence”.

**SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.**

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

“(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.”.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

“(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

“(A) any applicant for admission or alien seeking to transit through the United States; or

“(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).”.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

“(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.”.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

“(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.”; and

(2) in subsection (d), by inserting after paragraph (1) the following:

“(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection

(a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.”.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

“(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.”; and

(2) in subsection (1)—

(A) by striking “There are authorized” and inserting the following:

“(1) IN GENERAL.—There are authorized”; and

(B) by adding at the end the following:

“(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.”.

#### SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the

United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

#### SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than \$20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later than 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

#### SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than \$5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

**SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.**

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**“§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements**

“(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

“(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

“(1) fined under this title;

“(2)(A) imprisoned for not more than 3 years, or both;

“(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

“(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

“(3) both fined and imprisoned under this subsection.

“(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

“(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

“554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.”

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

“(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.”

**Subtitle D—Border Tunnel Prevention Act**  
**SEC. 141. SHORT TITLE.**

This subtitle may be cited as the “Border Tunnel Prevention Act”.

**SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.**

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 132(a), is further amended by adding at the end the following:

**“§ 555. Border tunnels and passages**

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

“(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 132(b), is further amended by adding at the end the following:

“Sec. 555. Border tunnels and passages.”

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “555,” before “1425.”

**SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing

set forth in section 3553(a)(2) of title 18, United States Code.

**TITLE II—INTERIOR ENFORCEMENT**

**SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.**

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a)”.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking “or” at the end;

(2) in clause (iv) by striking the period at the end and inserting “; or”;

(3) by inserting after clause (iv) the following:

“(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).”; and

(4) in the undesignated paragraph, by striking “For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.”

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

**“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.**

“A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

“(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

“(2) entered the United States before January 1, 1972;

“(3) has resided in the United States continuously since such entry;

“(4) is a person of good moral character;

“(5) is not ineligible for citizenship; and

“(6) is not described in section 237(a)(4)(B).”

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

**SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.**

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking “Attorney General” the first place it appears and inserting “Secretary of Homeland Security”;

(B) by striking “Attorney General” any other place it appears and inserting “Secretary”;

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

“(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.”.

(ii) by amending subparagraph (C) to read as follows:

“(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

“(i) make all reasonable efforts to comply with the removal order; or

“(ii) fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien’s departure, or conspiring or acting to prevent the alien’s removal.”; and

(iii) by adding at the end the following:

“(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.”;

(D) in paragraph (2), by adding at the end the following: “If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.”;

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

“(D) to obey reasonable restrictions on the alien’s conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

“(i) to prevent the alien from absconding;

“(ii) for the protection of the community; or

“(iii) for other purposes related to the enforcement of the immigration laws.”;

(F) in paragraph (6), by striking “removal period and, if released,” and inserting “removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien”;

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

“(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary’s discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien’s parole or the alien’s removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

“(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following proce-

dures shall apply to an alien detained under this section:

“(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

“(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

“(i) has effected an entry into the United States;

“(ii) has made all reasonable efforts to comply with the alien’s removal order;

“(iii) has cooperated fully with the Secretary’s efforts to establish the alien’s identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien’s departure; and

“(iv) has not conspired or acted to prevent removal.

“(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

“(i) shall consider any evidence submitted by the alien;

“(ii) may consider any other evidence, including—

“(I) any information or assistance provided by the Department of State or other Federal agency; and

“(II) any other information available to the Secretary pertaining to the ability to remove the alien.

“(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary’s discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

“(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary’s discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

“(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

“(ii) certifies in writing—

“(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

“(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

“(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

“(IV) that—

“(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

“(bb) the alien—

“(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

“(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

“(V) that—

“(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

“(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

“(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

“(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

“(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

“(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

“(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

“(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary’s discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

“(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

“(i) the alien fails to comply with the conditions of release;

“(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

“(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

“(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

“(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary’s efforts, if the alien—

“(i) has effected an entry into the United States; and

“(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

“(aa) failed or refused to make all reasonable efforts to comply with a removal order;

“(bb) failed or refused to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien’s departure; or

“(cc) conspired or acted to prevent removal; or

“(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

“(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

“(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.”

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting “(1)” before “If, after a hearing”;

(C) in subparagraphs (B) and (C), as redesignated, by striking “paragraph (1)” and inserting “subparagraph (A)”;

(D) by adding after subparagraph (C), as redesignated, the following:

“(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

“(A) is an alien; and

“(B)(i) has no lawful immigration status in the United States;

“(ii) is the subject of a final order of removal; or

“(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).”;

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking “and” at the end; and

(B) by adding at the end the following:

“(C) the person’s immigration status; and”.

### SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking “The term ‘aggravated felony’ means—” and inserting “Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term ‘aggravated felony’ applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—”;

(2) in subparagraph (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;”;

(3) in subparagraph (N), by striking “paragraph (1)(A) or (2) of”;

(4) in subparagraph (O), by striking “section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph” and inserting “section 275 or 276 for which the term of imprisonment is at least 1 year”;

(5) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense described in this paragraph” and inserting “aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense”;

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

### SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

“(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;”;

(2) in paragraph (8), by striking “(as defined in subsection (a)(43))” and inserting the following: “, regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

“(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

“(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or”;

(3) in the undesignated matter following paragraph (9), by striking “a finding that for other reasons such person is or was not of good moral character” and inserting the following: “a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant’s moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant’s conduct and acts at any time and are not limited to the period during which good moral character is required.”.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: “A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner’s denaturalization or the loss of the petitioner’s lawful permanent resident status.”.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting “if the alien has had the conditional basis removed pursuant to this section” before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting “if the alien has had the conditional basis removed pursuant to this section” before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting “, not later than 120 days after the Secretary of Homeland Security’s final determination,” after “may”; and

(2) by adding at the end the following: “Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary’s denial of the application was contrary to law.”.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

“(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).”.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking “the Attorney General if” and all that follows and inserting: “the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant’s inadmissibility or deportability, or to determine whether the applicant’s lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.”.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

“(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary’s determination on the application.”.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

**SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.**

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

“(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

“(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

“(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang, is inadmissible.”.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

“(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

“(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang, is deportable.”.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: “Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.”;

(ii) in subparagraph (C), by striking “a period of 12 or 18 months” and inserting “any other period not to exceed 18 months”;

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking “The amount of any such fee shall not exceed \$50.”;

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking “, or” at the end;

(II) in clause (ii), by striking the period at the end and inserting “; or”; and

(III) by adding at the end the following:

“(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).”; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: “The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.”.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting “212(a) or” after “section”;

(B) in the matter following subparagraph (D)—

(i) by striking “or imprisoned not more than four years” and inserting “and imprisoned for not less than 6 months or more than 5 years”; and

(ii) by striking “, or both”;

(2) in subsection (b), by striking “not more than \$1000 or imprisoned for not more than one year, or both” and inserting “under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).”; and

(3) by amending subsection (d) to read as follows:

“(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.”.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

“SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

“(a) CRIMINAL OFFENSES AND PENALTIES.—

“(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

“(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

“(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Se-

curity, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

“(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

“(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

“(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien’s illegal entry into or illegal presence in the United States;

“(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

“(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

“(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

“(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

“(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

“(i) if the violation is the offender’s first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

“(ii) if the violation is the offender’s second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

“(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

“(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

“(i) transporting the person in an engine compartment, storage compartment, or other confined space;

“(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

“(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

“(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

“(F) shall be fined under such title and imprisoned for not less than 10 years or more

than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

“(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

“(ii) intending to engage in terrorist activity;

“(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

“(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

“(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

“(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

“(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

“(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

“(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

“(2) DEFINITION.—An alien described in this paragraph is an alien who—

“(A) is an unauthorized alien (as defined in section 274A(h)(3));

“(B) is present in the United States without lawful authority; and

“(C) has been brought into the United States in violation of this subsection.

“(c) SEIZURE AND FORFEITURE.—

“(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

“(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

“(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

“(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

“(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

“(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

“(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

“(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

“(2) other officers responsible for the enforcement of Federal criminal laws.

“(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

“(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

“(2) the deposition otherwise complies with the Federal Rules of Evidence.

“(f) OUTREACH PROGRAM.—

“(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

“(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

“(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

“(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for the fiscal years 2007 through 2011 to carry out this subsection.

“(g) DEFINITIONS.—In this section:

“(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

“(2) LAWFUL AUTHORITY.—The term ‘lawful authority’ means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

“(3) PROCEEDS.—The term ‘proceeds’ includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

“(4) UNLAWFUL TRANSIT.—The term ‘unlawful transit’ means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.”.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

“Sec. 274. Alien smuggling and related offenses.”.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “, alien smuggling crime,” after “any crime of violence”;

(B) in subparagraph (A), by inserting “, alien smuggling crime,” after “such crime of violence”;

(C) in subparagraph (D)(ii), by inserting “, alien smuggling crime,” after “crime of violence”;

(2) by adding at the end the following:

“(6) For purposes of this subsection, the term ‘alien smuggling crime’ means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).”.

**SEC. 206. ILLEGAL ENTRY.**

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

**“SEC. 275. ILLEGAL ENTRY.**

“(a) IN GENERAL.—

“(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

“(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

“(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

“(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

“(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

“(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

“(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

“(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

“(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

“(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

“(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the

penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(A) alleged in the indictment or information; and

“(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

“(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

“(A) not less than \$50 or more than \$250 for each such entry, crossing, attempted entry, or attempted crossing; or

“(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

“(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.”

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

“Sec. 275. Illegal entry.”

#### SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

##### “SEC. 276. REENTRY OF REMOVED ALIEN.

“(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

“(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

“(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

“(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

“(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

“(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

“(5) was convicted, before such removal or departure, for murder, rape, kidnapping, or a

felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

“(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

“(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(1) alleged in the indictment or information; and

“(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

“(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

“(2) with respect to an alien previously denied admission and removed, the alien—

“(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

“(B) had complied with all other laws and regulations governing the alien’s admission into the United States.

“(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

“(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

“(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

“(3) the entry of the order was fundamentally unfair.

“(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

“(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

“(i) DEFINITIONS.—In this section:

“(1) CROSSES THE BORDER.—The term ‘crosses the border’ applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

“(2) FELONY.—Term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(3) MISDEMEANOR.—The term ‘misdemeanor’ means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

“(4) REMOVAL.—The term ‘removal’ includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

“(5) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”

#### SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

##### “CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Marriage fraud.

“1548. Attempts and conspiracies.

“1549. Alternative penalties for certain offenses.

“1550. Seizure and forfeiture.

“1551. Additional jurisdiction.

“1552. Additional venue.

“1553. Definitions.

“1554. Authorized law enforcement activities.

“1555. Exception for refugees and asylees.

##### “§ 1541. Trafficking in passports

“(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly—

“(1) and without lawful authority produces, issues, or transfers 10 or more passports;

“(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

“(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

“(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

“(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

##### “§ 1542. False statement in an application for a passport

“Any person who knowingly—

“(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

“(2) completes, mails, prepares, presents, signs, or submits an application for a United

States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

“(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

**“§ 1543. Forgery and unlawful production of a passport**

“(a) FORGERY.—Any person who—  
“(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

“(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority, shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

“(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

“(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

“(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

**“§ 1544. Misuse of a passport**

“(a) IN GENERAL.—Any person who—  
“(1) knowingly uses any passport issued or designed for the use of another;

“(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

“(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

“(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

“(1) to enter or to attempt to enter the United States; or

“(2) to defraud the United States, a State, or a political subdivision of a State, shall be fined under this title, imprisoned not more than 15 years, or both.

**“§ 1545. Schemes to defraud aliens**

“(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

“(1) to defraud any person, or

“(2) to obtain or receive from any person, by means of false or fraudulent pretenses,

representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

**“§ 1546. Immigration and visa fraud**

“(a) IN GENERAL.—Any person who knowingly—

“(1) uses any immigration document issued or designed for the use of another;

“(2) forges, counterfeits, alters, or falsely makes any immigration document;

“(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

“(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

“(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

“(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

“(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

“(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

“(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

“(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

“(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

**“§ 1547. Marriage fraud**

“(a) EVASION OR MISREPRESENTATION.—Any person who—

“(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

“(2) knowingly misrepresents the existence or circumstances of a marriage—

“(A) in an application or document authorized by the immigration laws; or

“(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

“(b) MULTIPLE MARRIAGES.—Any person who—

“(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

“(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

“(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

“(d) DURATION OF OFFENSE.—

“(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

“(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

**“§ 1548. Attempts and conspiracies**

“Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

**“§ 1549. Alternative penalties for certain offenses**

“(a) TERRORISM.—Any person who violates any section of this chapter—

“(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

“(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

“(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

“(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

“(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

**“§ 1550. Seizure and forfeiture**

“(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

“(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

**“§ 1551. Additional jurisdiction**

“(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

“(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this

chapter outside the United States shall be punished as provided under this chapter if—

“(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

“(2) the offense is in or affects foreign commerce;

“(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

“(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

“(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

“(6) the offender is a stateless person whose habitual residence is in the United States.

#### “§ 1552. Additional venue

“(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

“(1) any district in which the false statement or representation was made;

“(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

“(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

“(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

#### “§ 1553. Definitions

“As used in this chapter:

“(1) The term ‘falsely make’ means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

“(A) contains a statement or representation that is false, fictitious, or fraudulent;

“(B) has no basis in fact or law; or

“(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

“(2) The term a ‘false statement or representation’ includes a personation or an omission.

“(3) The term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(4) The term ‘immigration document’—

“(A) means—

“(i) any passport or visa; or

“(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

“(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

“(5) The term ‘immigration laws’ includes—

“(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

“(B) the laws relating to the issuance and use of passports; and

“(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

“(6) The term ‘immigration proceeding’ includes an adjudication, interview, hearing, or review.

“(7) A person does not exercise ‘lawful authority’ if the person abuses or improperly exercises lawful authority the person otherwise holds.

“(8) The term ‘passport’ means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

“(9) The term ‘produce’ means to make, prepare, assemble, issue, print, authenticate, or alter.

“(10) The term ‘State’ means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

#### “§ 1554. Authorized law enforcement activities

“Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

#### “§ 1555. Exception for refugees, asylees, and other vulnerable persons

“(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

“(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

“(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

“(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

“(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

#### “75. Passport, visa, and immigration fraud ..... 1541”.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

“(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).”

#### SEC. 209. INADMISSIBILITY AND REMOVAL FOR FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) in subclause (I), by striking “, or” at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting “; or”; and

(3) by inserting after subclause (II) the following:

“(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code;”.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

“(iii) of a violation of any provision of chapter 75 of title 18, United States Code;”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

#### SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the “Program”) or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien’s State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

**SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.**

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien’s own expense under this subsection instead of being subject to proceedings under section 240.”;

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

“(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien’s own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.”;

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

“(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.”;

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

“(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.”;

(iv) in subparagraph (C), as redesignated, by striking “subparagraphs (C) and (D)(ii)” and inserting “subparagraphs (D) and (E)(ii)”;

(v) in subparagraph (D), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(F) in paragraph (4), by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”;

(2) in subsection (b)(2), by striking “a period exceeding 60 days” and inserting “any period in excess of 45 days”;

(3) by amending subsection (c) to read as follows:

“(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

“(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

“(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien’s agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

“(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

“(4) FAILURE TO COMPLY WITH AGREEMENT.—

“(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

“(i) ineligible for the benefits of the agreement;

“(ii) subject to the penalties described in subsection (d); and

“(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

“(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge’s decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien’s voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

“(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary’s discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien’s obligation to depart from the United States during the period agreed to by the alien and the Secretary.”;

(4) by amending subsection (d) to read as follows:

“(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

“(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of \$3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the

Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

“(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien’s departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

“(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien’s failure to depart, or upon the alien’s other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.”;

(5) by amending subsection (e) to read as follows:

“(e) ELIGIBILITY.—

“(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

“(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.”;

(6) in subsection (f), by adding at the end the following: “Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.”.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

**SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.**

(a) **INADMISSIBLE ALIENS.**—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking “seeks admission within 5 years of the date of such removal (or within 20 years” and inserting “seeks admission not later than 5 years after the date of the alien’s removal (or not later than 20 years after the alien’s removal”); and

(2) in clause (ii), by striking “seeks admission within 10 years of the date of such alien’s departure or removal (or within 20 years of” and inserting “seeks admission not later than 10 years after the date of the alien’s departure or removal (or not later than 20 years after”.

(b) **BAR ON DISCRETIONARY RELIEF.**—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking “Commissioner” and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(c) **INELIGIBILITY FOR RELIEF.**—

“(1) **IN GENERAL.**—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien’s departure from the United States.

“(2) **SAVINGS PROVISION.**—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.”.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

**SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.**

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking “(y)(2)” and all that follows and inserting “(y), is in a nonimmigrant classification; or”;

(C) by adding at the end the following:

“(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));”;

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking “(y)(2)” and all that follows and inserting “(y), is in a nonimmigrant classification; or”;

(C) by adding at the end the following:

“(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));”.

(3) in subsection (y)—

(A) in the header, by striking “ADMITTED UNDER NONIMMIGRANT VISAS” and inserting “IN A NONIMMIGRANT CLASSIFICATION”;

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) the term ‘nonimmigrant classification’ includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).”;

(C) in paragraph (2), by striking “has been lawfully admitted to the United States under a nonimmigrant visa” and inserting “is in a nonimmigrant classification”;

(D) in paragraph (3)(A), by striking “Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)” and inserting “Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)”.

**SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.**

(a) **IN GENERAL.**—Section 3291 of title 18, United States Code, is amended to read as follows:

**“§ 3291. Immigration, naturalization, and peonage offenses**

“No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

“3291. Immigration, naturalization, and peonage offenses.”.

**SEC. 215. DIPLOMATIC SECURITY SERVICE.**

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

“(1) conduct investigations concerning—

“(A) illegal passport or visa issuance or use;

“(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

“(C) violations of chapter 77 of title 18, United States Code; and

“(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code).”.

**SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.**

(a) **IN GENERAL.**—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

“(f) **MINIMUM NUMBER OF AGENTS IN STATES.**—

“(1) **IN GENERAL.**—The Secretary of Homeland Security shall allocate to each State—

“(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

“(i) investigate immigration violations; and

“(ii) ensure the departure of all removable aliens; and

“(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigra-

tion and naturalization adjudication functions.

“(2) **WAIVER.**—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census”; and

(2) by adding at the end the following:

“(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

“(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

**SEC. 217. CONSTRUCTION.**

(a) **IN GENERAL.**—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

**“SEC. 362. CONSTRUCTION.**

“(a) **IN GENERAL.**—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

“(b) **DENIAL; WITHHOLDING.**—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.”.

(b) **CLERICAL AMENDMENT.**—The table of contents is amended by inserting after the item relating to section 361 the following:

“Sec. 362. Construction.”.

**SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

(a) **REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.**—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

- (1) indigent defense;
- (2) criminal prosecution;
- (3) autopsies;
- (4) translators and interpreters; and
- (5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated \$400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

“(5) There are authorized to be appropriated to carry this subsection—

“(A) such sums as may be necessary for fiscal year 2007;

“(B) \$750,000,000 for fiscal year 2008;

“(C) \$850,000,000 for fiscal year 2009; and

“(D) \$950,000,000 for each of the fiscal years 2010 through 2012.”

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

**SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.**

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

**SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.**

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

- (1) law enforcement activities;
- (2) health care services;
- (3) environmental restoration; and
- (4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

- (1) describes the level of access of Border Patrol agents on tribal lands;
- (2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;
- (3) contains a strategy for improving such access through cooperation with tribal authorities; and
- (4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

**SEC. 221. ALTERNATIVES TO DETENTION.**

The Secretary shall conduct a study of—

- (1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;
- (2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and
- (3) other alternatives to detention, including—
  - (A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

**SEC. 222. CONFORMING AMENDMENT.**

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking “(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)” and inserting “which is described in chapter 75 of title 18, United States Code, and”; and

(2) by inserting the following: “that is not described in section 1548 of such title (relating to increased penalties), and” after “first offense”.

**SEC. 223. REPORTING REQUIREMENTS.**

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking “notify the Attorney General in writing” and inserting “submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary.”;

(B) by striking “the Attorney General may require by regulation” and inserting “the Secretary may require”; and

(C) by adding at the end the following: “If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien’s current address and a telephone number, if any, at which the alien may be contacted.”;

(2) in subsection (b), by striking “Attorney General” each place such term appears and inserting “Secretary”;

(3) in subsection (c), by striking “given to such parent” and inserting “given by such parent”; and

(4) by adding at the end the following:

“(d) ADDRESS TO BE PROVIDED.—

“(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien’s current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

“(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

“(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

“(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

“(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien’s current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien’s address under this section at the time of the alien’s release from detention.

“(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien’s address under other Federal programs, including—

“(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

“(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

“(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

“(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

“(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

“(3) OBLIGATION.—The alien’s provision of an address for any other purpose under the Federal immigration laws does not excuse the alien’s obligation to submit timely notice of the alien’s address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).”

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(2) in section 263(a), by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(B) in subsection (f)—

(i) by striking “Attorney General is authorized” and inserting “Secretary of Homeland Security and Attorney General are authorized”; and

(ii) by striking “Attorney General or the Service” and inserting “Secretary or the Attorney General”.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

“(b) FAILURE TO PROVIDE NOTICE OF ALIEN’S CURRENT ADDRESS.—

“(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien’s current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

“(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien’s current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which

may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.”;

(2) in subsection (c), by inserting “or a notice of current address” before “containing statements”; and

(3) in subsections (c) and (d), by striking “Attorney General” each place it appears and inserting “Secretary”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

#### SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: “If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.”; and

(2) in paragraph (4), by adding at the end the following: “The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

#### SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting “, including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,” after “offense”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

#### SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “and before June 1, 2006.”.

#### SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

(2) in subsection (a), by striking the subsection heading and inserting: “EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—”;

(3) in subsection (b), by striking the subsection heading and inserting: “REMOVAL OF CRIMINAL ALIENS.—”;

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

“(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

“(A) has not been lawfully admitted to the United States for permanent residence; and

“(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).”;

(5) in the subsection (c) that relates to presumption of deportability, by striking “convicted of an aggravated felony” and inserting “described in subsection (b)(2)”;

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking “, who is deportable under this Act.”.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

(B) by adding at the end the following new subclause:

“(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.”.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking “and who arrives by aircraft at a port of entry” and inserting “and”;

(B) by adding at the end the following:

“(i) who arrives by aircraft at a port of entry; or

“(ii) who is present in the United States and arrived in any manner at or between a port of entry.”.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting “or stay, whether temporarily or otherwise,” after “enjoin”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

#### SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking “Any” and inserting “Except as provided in clause (vii), any”;

(2) in subparagraph (A), by inserting after clause (vi) the following:

“(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.”; and

(3) in subparagraph (B)(i)—

(A) by striking “Any alien” and inserting the following: “(I) Except as provided in subclause (II), any alien”; and

(B) by adding at the end the following:

“(II) Subclause (I) shall not apply in the case of an alien admitted for permanent resi-

dence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.”.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting “(other than a citizen described in section 204(a)(1)(A)(vii))” after “citizen of the United States” each place that phrase appears.

#### SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

#### “SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

“(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

“(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

“(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

“(1) shall—

“(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

“(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

“(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

“(I) the conclusion of the State charging process or dismissal process; or

“(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

“(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

“(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

“(d) REIMBURSEMENT.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a

political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

“(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

“(A) the product of—

“(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

“(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

“(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

“(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

“(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

“(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

“(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

“(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

“(g) AUTHORITY FOR CONTRACTS.—

“(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

“(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.”

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated \$850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

**SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting “section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” after “section 1363 (relating to destruction of

property within the special maritime and territorial jurisdiction),”; and

(2) by inserting “section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),” after “section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),”.

**SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.**

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and”.

**SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each

State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

**SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.**

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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

**SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.**

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

## (c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

### TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

#### SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

#### “SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

“(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

“(1) IN GENERAL.—It is unlawful for an employer—

“(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

“(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

“(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

“(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines

that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

“(5) DEFENSE.—

“(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

“(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

“(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

“(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

“(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

“(A) the employer is in compliance with the requirements of subsections (c) and (d); or

“(B) that the employer has instituted a program to come into compliance with such requirements.

“(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

“(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

“(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

“(1) ATTESTATION BY EMPLOYER.—

“(A) REQUIREMENTS.—

“(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

“(I) a document described in subparagraph (B); or

“(II) a document described in subparagraph (C) and a document described in subparagraph (D).

“(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

“(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's

identity and eligibility for employment in the United States.

“(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

“(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

“(i) United States passport; or

“(ii) permanent resident card or other document designated by the Secretary, if the document—

“(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

“(II) is evidence of eligibility for employment in the United States; and

“(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

“(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

“(ii) any other documents evidencing eligibility of employment in the United States, if—

“(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

“(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

“(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13; 119 Stat. 302);

“(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

“(I) is not required by the Secretary to comply with such requirements; and

“(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

“(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

“(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

“(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

“(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

“(I) the Secretary determines is a reliable means of identification; and

“(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

“(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

“(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

“(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

“(2) ATTESTATION OF EMPLOYEE.—

“(A) REQUIREMENTS.—

“(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

“(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

“(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than \$5,000, a term of imprisonment not to exceed 3 years, or both.

“(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

“(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

“(B) in the case of the hiring of an individual the later of—

“(i) 7 years after the date of such hiring;

“(ii) 1 year after the date the individual’s employment is terminated; or

“(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

“(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

“(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

“(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer

and the individual and the date of receipt of such documents.

“(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

“(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual’s name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

“(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual’s identity or eligibility for employment in the United States.

“(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

“(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

“(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

“(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

“(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the ‘System’) as described in this subsection.

“(2) MANAGEMENT OF SYSTEM.—

“(A) IN GENERAL.—The Secretary shall, through the System—

“(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual’s identity and eligibility for employment in the United States;

“(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

“(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

“(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

“(i) if the System is able to confirm the individual’s identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

“(ii) if the System is unable to confirm the individual’s identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

“(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

“(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

“(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

“(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

“(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

“(ii) to respond to each inquiry made by an employer; and

“(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

“(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

“(v) to allow for monitoring of the use of the System and provide an audit capability; and

“(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

“(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

“(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

“(ii) a determination of whether such social security account number was issued to the named individual;

“(iii) a determination of whether such social security account number is valid for employment in the United States; and

“(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

“(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

“(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

“(ii) a determination of whether such number was issued to the named individual;

“(iii) a determination of whether the individual is authorized to be employed in the United States; and

“(iv) any other related information that the Secretary may require.

“(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

“(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

“(A) CRITICAL EMPLOYERS.—

“(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration

Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

“(I) part of the critical infrastructure of the United States; or

“(II) directly related to the national security or homeland security of the United States.

“(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

“(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

“(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

“(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

“(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

“(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

“(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

“(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

“(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

“(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

“(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

“(7) SYSTEM REQUIREMENTS.—

“(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

“(i) obtain from the individual and record on the form designated by the Secretary—

“(I) the individual's social security account number; and

“(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

“(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

“(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

“(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

“(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

“(C) CONFIRMATION OR NONCONFIRMATION.—

“(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

“(ii) NONCONFIRMATION AND VERIFICATION.—

“(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

“(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

“(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

“(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final

such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

“(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued by the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

“(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

“(D) CONSEQUENCES OF NONCONFIRMATION.—

“(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

“(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

“(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

“(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

“(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

“(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

“(e) COMPLIANCE.—

“(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

“(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

“(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

“(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

“(2) AUTHORITY IN INVESTIGATIONS.—

“(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

“(i) shall have reasonable access to examine evidence of any employer being investigated; and

“(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

“(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

“(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

“(3) COMPLIANCE PROCEDURES.—

“(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

“(i) describe the violation;

“(ii) specify the laws and regulations allegedly violated;

“(iii) disclose the material facts which establish the alleged violation; and

“(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

“(B) REMISSION OR MITIGATION OF PENALTIES.—

“(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

“(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

“(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

“(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

“(4) CIVIL PENALTIES.—

“(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

“(i) Pay a civil penalty of not less than \$500 and not more than \$4,000 for each unauthorized alien with respect to each such violation.

“(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than \$4,000 and not more than \$10,000 for each unauthorized alien with respect to each such violation.

“(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than \$6,000 and not more than \$20,000 for each unauthorized alien with respect to each such violation.

“(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

“(i) Pay a civil penalty of not less than \$200 and not more than \$2,000 for each such violation.

“(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than \$400 and not more than \$4,000 for each such violation.

“(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of \$6,000 for each such violation.

“(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

“(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

“(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

“(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be

on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

“(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

“(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

“(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than \$20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

“(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

“(g) PROHIBITION OF INDEMNITY BONDS.—

“(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

“(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of \$10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

“(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

“(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

“(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

“(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive

operation of this subsection or may limit the duration or scope of the debarment.

“(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

“(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Security to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

“(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government’s intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

“(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

“(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

“(i) MISCELLANEOUS PROVISIONS.—

“(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

“(2) PREEMPTION.—The provisions of this section preempt any State or local law—

“(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

“(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

“(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

“(ii) take other steps that facilitate the employment of day laborers by others.

“(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

“(k) DEFINITIONS.—In this section:

“(1) EMPLOYER.—The term ‘employer’ means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

“(2) NO-MATCH NOTICE.—The term ‘no-match notice’ means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W-2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

“(3) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(4) UNAUTHORIZED ALIEN.—The term ‘unauthorized alien’ means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

“(A) an alien lawfully admitted for permanent residence; or

“(B) authorized to be so employed by this Act or by the Secretary.”

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

**SEC. 302. EMPLOYER COMPLIANCE FUND.**

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

“(w) EMPLOYER COMPLIANCE FUND.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the ‘Employer Compliance Fund’ (referred to in this subsection as the ‘Fund’).

“(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

“(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

“(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.”

**SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.**

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigra-

tion fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

**SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.**

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking “citizen” and inserting “national”.

## TITLE IV—TEMPORARY WORKER PROGRAMS AND VISA REFORM

### Subtitle A—Requirements for Participating Countries

**SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.**

(a) IN GENERAL.—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—

(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to paragraph (1), the employer of the alien shall provide or the alien shall obtain coverage that meets such minimum level.

(d) HOUSING.—Participating countries shall agree to evaluate means to provide housing incentives in the alien’s home country for returning workers.

### Subtitle B—Nonimmigrant Temporary Worker Program

**SEC. 411. NONIMMIGRANT TEMPORARY WORKER CATEGORY.**

(a) NEW TEMPORARY WORKER CATEGORY.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

“(W) an alien having a residence in a foreign country which the alien has no intention of abandoning who is coming temporarily to the United States to perform temporary labor or service, other than that

which would qualify an alien for status under sections 101(a)(15)(H)(i), 101(a)(15)(H)(ii)(a), 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P), and who meets the requirements of section 218A; or”.

(b) **REPEAL OF H-2B CATEGORY.**—Section 101(a)(15)(H)(ii) is amended by striking “, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession”.

(c) **TECHNICAL AMENDMENTS.**—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking “or” at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and “or”.

**SEC. 412. TEMPORARY WORKER PROGRAM.**

(a) **IN GENERAL.**—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

**“SEC. 218A. TEMPORARY WORKER PROGRAM.**

“(a) **IN GENERAL.**—The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(W) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).”

“(b) **REQUIREMENTS FOR ADMISSION.**—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(W), an alien shall meet the following requirements:

“(1) **ELIGIBILITY TO WORK.**—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(W).”

“(2) **EVIDENCE OF EMPLOYMENT.**—The alien must establish that he has a job offer from an employer authorized to hire aliens under the Alien Employment Management Program.”

“(3) **FEE.**—The alien shall pay a \$500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.”

“(4) **MEDICAL EXAMINATION.**—The alien shall undergo a medical examination (including a determination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.”

“(5) **APPLICATION CONTENT AND WAIVER.**—

“(A) **APPLICATION FORM.**—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).”

“(B) **CONTENT.**—In addition to any other information that the Secretary determines is required to determine an alien’s eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien’s physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.”

“(C) **WAIVER.**—The Secretary of Homeland Security may require an alien to include

with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of admission as a nonimmigrant under section 101(a)(15)(W), the alien agrees to waive any right—

“(i) to administrative or judicial review or appeal of an immigration officer’s determination as to the alien’s admissibility; or

“(ii) to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, if such removal action is initiated after the termination of the alien’s period of authorized admission as a nonimmigrant under section 101(a)(15)(W).”

“(D) **KNOWLEDGE.**—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.”

“(c) **GROUND OF INADMISSIBILITY.**—

“(1) **IN GENERAL.**—In determining an alien’s admissibility as a nonimmigrant under section 101(a)(15)(W)—

“(A) paragraphs (5), (6)(A), (7), and (9)(B) or (C) of section 212(a) may be waived for conduct that occurred on a date prior to the effective date of this Act; and

“(B) the Secretary of Homeland Security may not waive—

“(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminal);

“(ii) section 212(a)(3) (relating to security and related grounds); or

“(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

“(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

“(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).”

“(2) **WAIVER FEE.**—An alien who is granted a waiver under subparagraph (1) shall pay a \$500 fee upon approval of the alien’s visa application.”

“(3) **RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.**—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).”

“(d) **BACKGROUND CHECKS AND INTERVIEW.**—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).”

“(e) **INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.**—An alien admitted under

section 101(a)(15)(W) is ineligible to change status under section 248.

“(f) **DURATION.**—

“(1) **GENERAL.**—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien’s home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.”

“(2) **SEASONAL WORKERS.**—An alien who spends less than 6 months a year as a nonimmigrant described in section 101(a)(15)(W) is not subject to the time limitations under subparagraph (1).”

“(3) **COMMUTERS.**—An alien who resides outside the United States, but who commutes to the United States to work as a nonimmigrant described in section 101(a)(15)(W), is not subject to the time limitations under paragraph (1).”

“(4) **DEFERRED MANDATORY DEPARTURE.**—An alien granted Deferred Mandatory Departure status, who remains in the United States under such status for—

“(A) a period of 2 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 5 years;

“(B) a period of 3 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 4 years;

“(C) a period of 4 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 3 years; or

“(D) a period of 5 years, may not be granted status as a nonimmigrant under section 101(a)(15)(W) for more than a total of 2 years.”

“(g) **INTENT TO RETURN HOME.**—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

“(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

“(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.”

“(h) **BIOMETRIC DOCUMENTATION.**—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.”

“(i) **PENALTY FOR FAILURE TO DEPART.**—An alien who fails to depart the United States prior to 10 days after the date that the alien’s authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.”

“(j) **PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.**—An alien who, after the effective date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, enters the United States without inspection, or violates a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission, shall be ineligible for nonimmigrant status under section 101(a)(15)(W) or Deferred Mandatory Departure status under section 218B for a period of 10 years.”

“(k) ESTABLISHMENT OF TEMPORARY WORKER TASK FORCE.—

“(1) IN GENERAL.—There is established a task force to be known as the Temporary Worker Task Force (referred to in this section as the ‘Task Force’).

“(2) PURPOSES.—The purposes of the Task Force are—

“(A) to study the impact of the admission of aliens under section 101(a)(15)(W) on the wages, working conditions, and employment of United States workers; and

“(B) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(W).

“(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

“(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

“(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

“(C) 2 shall be appointed by the majority leader of the Senate;

“(D) 2 shall be appointed by the minority leader of the Senate;

“(E) 2 shall be appointed by the Speaker of the House of Representatives; and

“(F) 2 shall be appointed by the minority leader of the House of Representatives.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—Members of the Task Force shall be—

“(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

“(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

“(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

“(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

“(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

“(7) MEETINGS.—

“(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

“(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

“(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

“(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

“(A) findings with respect to the duties of the Task Force;

“(B) recommendations for imposing a numerical limit.

“(10) DETERMINATION.—Not later than 6 months after the submission of the report,

the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

“(1) FAMILY MEMBERS.—

“(A) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

“(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or

“(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) who is seeking to be admitted as a nonimmigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of \$100.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(m) TRAVEL OUTSIDE THE UNITED STATES.—

“(1) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

“(A) may travel outside of the United States; and

“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(2) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

“(n) EMPLOYMENT.—

“(1) PORTABILITY.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien’s departure from the United States.

“(o) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at time of admission of an alien under section 101(a)(15)(W).

“(p) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(q) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of nonimmigrant status under section 101(a)(15)(W) or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien if such order is entered after the termination of the alien’s period of authorized admission as a nonimmigrant under section 101(a)(15)(W); or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”

(b) PROHIBITION ON CHANGE IN NON-IMMIGRANT CLASSIFICATION.—Section 248(1) of the Immigration and Nationality Act (8 U.S.C. 1258(1)) is amended by striking “or (S)” and inserting “(S), or (W)”.

#### SEC. 413. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 414. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated \$500,000,000 for facilities, personnel (including consular officers), training, technology and processing necessary to carry out the amendments made by this subtitle.

#### Subtitle C—Mandatory Departure and Reentry in Legal Status

#### SEC. 421. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218A, as added by section 412, the following new section:

#### “SEC. 218B. MANDATORY DEPARTURE AND REENTRY.

“(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

“(b) REQUIREMENTS.—

“(1) PRESENCE.—An alien must establish that the alien was physically present in the United States 1 year prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005 in

Congress and has been continuously in the United States since such date, and was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

“(2) EMPLOYMENT.—An alien must establish that the alien was employed in the United States prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005, and has been employed in the United States since that date.

“(3) ADMISSIBILITY.—

“(A) IN GENERAL.—The alien must establish that he—

“(i) is admissible to the United States, except as provided as in (B); and

“(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(4) INELIGIBLE.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

“(A) is subject to a final order or removal under section 240;

“(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

“(C) has been issued a Notice to Appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or is inadmissible under section 212(a)(6)(A);

“(D) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

“(E) fails to comply with any request for information by the Secretary of Homeland Security.

“(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

“(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

“(A) if the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

“(B) if the alien commits an act that makes the alien removable from the United States.

“(7) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have

engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(C) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

“(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(1) an acknowledgment made in writing and under oath that the alien—

“(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(B) understands the terms of the terms of Deferred Mandatory Departure;

“(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(3) any false or fraudulent documents in the alien's possession.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant an alien Deferred Mandatory Departure status for a period not to exceed 5 years.

“(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure must depart prior to the expiration of the period of Deferred Mandatory Departure status. The alien must register with the Secretary of Homeland Security at time of departure and surrender any evidence of Deferred Mandatory Departure status at time of departure.

“(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs prior to the expiration of such status shall not be subject to section 212(a)(9)(B) and, if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

“(4) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to the following fees:

“(A) No fine if the alien departs within the first year after the grant of Deferred Mandatory Departure.

“(B) \$2,000 if the alien does not depart within the second year after the grant of Deferred Mandatory Departure.

“(C) \$3,000 if the alien does not depart within the third year following the grant of Deferred Mandatory Departure.

“(D) \$4,000 if the alien does not depart within the fourth year following the grant of Deferred Mandatory Departure.

“(E) \$5,000 if the alien does not depart during the fifth year following the grant of Deferred Mandatory Departure.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security

granting the alien Deferred Mandatory Departure status.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

“(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

“(ii) must establish at the time of application for admission that the alien is admissible under section 212.

“(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

“(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

“(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status is prohibited from applying to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

“(j) APPLICATION FEE.—

“(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of \$1,000.

“(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) FAMILY MEMBERS.—

“(1) FAMILY MEMBERS.—

“(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure shall submit, in addition to any other fee authorized by law, an additional fee of \$500.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(1) EMPLOYMENT.—

“(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the

Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this

section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”

(b) CONFORMING AMENDMENT.—Amend section 237(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218B).”

#### SEC. 422. STATUTORY CONSTRUCTION.

Nothing in this subtitle, or any amendment made by this subtitle, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

#### SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subtitle.

#### Subtitle D—Alien Employment Management System

#### SEC. 431. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 621, the following new section:

#### “SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

“(a) ESTABLISHMENT.—

“(1) PURPOSE.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage and track the employment of aliens described in section 218A or 218B.

“(2) DEADLINE.—The program under subsection (a) shall commence prior to any alien being admitted under section 101(a)(15)(W) or granted Deferred Mandatory Departure under section 218B.

“(b) REQUIREMENTS.—The program shall—

“(1) enable employers who seek to hire aliens described in section 218A or 218B to apply for authorization to employ such aliens;

“(2) be interoperable with Social Security databases and must provide a means of immediately verifying the identity and employment authorization of an alien described in section 218A or 218B, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;

“(3) require an employer to utilize readers or scanners at the location of employment or at a Federal facility to transmit the biometric and biographic information contained in the alien's evidence of status to the Secretary of Homeland Security, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005; and

“(4) collect sufficient information from employers to enable the Secretary of Homeland Security to identify—

“(A) whether an alien described in section 218A or 218B is employed;

“(B) any employer that has hired an alien described in section 218A or 218B;

“(C) the number of aliens described in section 218A or 218B that an employer is authorized to hire and is currently employing; and  
 “(D) the occupation, industry and length of time that an alien described in section 218A or 218B has been employed in the United States.

“(C) AUTHORIZATION TO HIRE ALIENS DESCRIBED IN SECTION 218A OR 218B.—

“(1) APPLICATION.—An employer must apply, through the program described in subsection (a) of this section, to obtain authorization to hire aliens described in section 218A or 218B.

“(2) PENALTIES.—An employer who employs an alien described in section 218A or 218B without authorization is subject to the same penalties and provisions as an employer who violates section 274(a)(1)(A) or (a)(2). An employer shall be subject to penalties prescribed by the Secretary of Homeland Security by regulation, which may include monetary penalties and debarment from eligibility to hire aliens described in section 218A or 218B.

“(3) ELIGIBILITY.—An employer must establish that it is a legitimate company and must attest that it will comply with the terms of the program established under subsection (a).

“(4) NUMBER OF ALIENS AUTHORIZED.—An employer may request authorization to multiple aliens described in section 218A or 218B.

“(5) ELECTRONIC FORM.—The program established under subsection (a) shall permit employers to submit applications under this subsection in an electronic form.

“(d) NOTIFICATION UPON TERMINATION OF EMPLOYMENT.—An employer, through the program established under subsection (a), must notify the Secretary of Homeland Security not more than 3 business days after the date of the termination of the alien’s employment. The employer is not authorized to fill the position with another alien described in section 218A or 218B until the employer notifies the Secretary of Homeland Security that the alien is no longer employed by that employer.

“(e) PROTECTION OF UNITED STATES WORKERS.—An employer may not be authorized to hire an alien described in section 218A or 218B until the employer submits an attestation stating the following:

“(1) The employer has posted the position in a national, electronic job registry maintained by the Secretary of Labor, for not less than 30 days.

“(2) The employer has offered the position to any eligible United States worker who applies and is equally or better qualified for the job for which a temporary worker is sought and who will be available at the time and place of need. An employer shall maintain records for not less than 1 year demonstrating that why United States workers who applied were not hired.

“(3) The employer shall comply with the terms of the program established under subsection (a), including the terms of any temporary worker monitoring program established by the Secretary.

“(4) The employer shall not hire more aliens than the number authorized by the Secretary of Homeland Security has authorized it to hire.

“(5) The worker shall be paid at least the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage. All wages will be paid in a timely manner and all payroll records will be maintained accurately.

“(6) The employment of a temporary worker shall not adversely affect the working conditions of other similarly employed United States workers.

“(f) APPROVAL.—After determining that there are no United States workers who are qualified and willing to obtain the employment for which the employer is seeking temporary workers, the Secretary of Homeland Security may approve the application submitted by the employer under this paragraph for the number of temporary workers that the Secretary determines are required by the employer. Such approval shall be valid for a 2-year period.”

**SEC. 432. LABOR INVESTIGATIONS.**

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Labor shall conduct audits, including random audits, of employers who employ aliens described under section 218A or 218B of the Immigration and Nationality Act, as added by section 412 and 421, respectively.

(b) PENALTIES.—The Secretary of Homeland Security shall establish penalties, which may include debarment from eligibility for hire also described under section 218A, as added by section 412 of this Act, 218B, as added by section 421 of this Act, for employers who fail to comply with section 218C of the Immigration and Nationality Act as added by section 431 of this Act, and shall establish protections for aliens who report employers who fail to comply with such section.

**Subtitle E—Protection Against Immigration Fraud**

**SEC. 441. GRANTS TO SUPPORT PUBLIC EDUCATION AND TRAINING.**

(a) GENERAL PROGRAM PURPOSE.—The purpose of this subtitle is to assist qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act and the amendments made by this Act.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The grants under this part shall be used to fund public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by non-profit community organizations in providing services related to this Act, and to educate, train and support non-profit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation. In particular, funding shall be provided to non-profit organizations for the purposes of—

(1) educating immigrant communities and other interested entities on the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary of Homeland Security, and on the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(2) educating interested entities on the requirements for obtaining non-profit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary of Homeland Security, and providing non-profit agencies with training and technical assistance on the recognition and accreditation process; and

(3) educating non-profit community organizations, immigrant communities and other interested entities on the process for obtaining benefits under this Act or an amendment made by this Act, and the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or an amendment made by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs at the United States Department of Justice to carry out this section—

- (1) \$40,000,000 for fiscal year 2006;
- (2) \$40,000,000 for fiscal year 2007; and
- (3) \$40,000,000 for fiscal year 2008.

(d) IN GENERAL.—The Office of Justice Programs shall ensure, to the extent possible, that the non-profit community organizations funded under this Section shall serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

**Subtitle F—Circular Migration**

**SEC. 451. INVESTMENT ACCOUNTS.**

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

“(o)(1) Notwithstanding any other provision of this section, the Secretary of the Treasury shall transfer at least quarterly from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund 100 percent of the temporary worker taxes to the Temporary Worker Investment Fund for deposit in a temporary worker investment account for each temporary worker as specified in section 253.

“(2) For purposes of this subsection—

“(A) the term ‘temporary worker taxes’ means that portion of the amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this section and properly attributable to the wages (as defined in section 3121 of the Internal Revenue Code of 1986) and self-employment income (as defined in section 1402 of such Code) of temporary workers as determined by the Commissioner of Social Security; and  
 “(B) the term ‘temporary worker’ means an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.”

(b) TEMPORARY WORKER INVESTMENT ACCOUNTS.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the “PART A—SOCIAL SECURITY”; and

(2) by adding at the end the following:

“PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS  
 “DEFINITIONS

“SEC. 251. For purposes of this part:

“(1) COVERED EMPLOYER.—The term ‘covered employer’ means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person’s employ to whom wages are paid by such person during such calendar year.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(3) TEMPORARY WORKER.—The term ‘temporary worker’ an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

“(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term ‘temporary worker investment account’ means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

“(5) TEMPORARY WORKER INVESTMENT FUND.—The term ‘Temporary Worker Investment Fund’ means the fund established under section 253.

“TEMPORARY WORKER INVESTMENT ACCOUNTS

“SEC. 252. (a) IN GENERAL.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W-4 form (or any successor form) identifying such individual as a temporary worker.

“(b) TIME ACCOUNT TAKES EFFECT.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

“(c) TEMPORARY WORKER’S PROPERTY RIGHT IN TEMPORARY WORKER INVESTMENT ACCOUNT.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

“TEMPORARY WORKER INVESTMENT FUND

“SEC. 253. (a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Temporary Worker Investment Fund’ to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established under section 252 and the income earned under subsection (e) and credited to such account.

“(b) NOTICE OF CONTRIBUTIONS.—The full amount of a temporary worker’s investment account transfers shall be shown on such worker’s W-2 tax statement, as provided in section 6051(a)(14) of the Internal Revenue Code of 1986.

“(c) INVESTMENT EARNINGS REPORT.—

“(1) IN GENERAL.—At least annually, the Temporary Worker Investment Fund shall provide to each temporary worker with a temporary worker investment account managed by the Fund a temporary worker investment status report. Such report may be transmitted electronically upon the agreement of the temporary worker under the terms and conditions established by the Secretary.

“(2) CONTENTS OF REPORT.—The temporary worker investment status report, with respect to a temporary worker investment account, shall provide the following information:

“(A) The total amounts transferred under section 201(o) in the last quarter, the last year, and since the account was established.

“(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

“(d) MAXIMUM ADMINISTRATIVE FEE.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker’s account.

“(e) INVESTMENT DUTIES OF SECRETARY.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

“TEMPORARY WORKER INVESTMENT ACCOUNT DISTRIBUTIONS

“SEC. 254. (a) DATE OF DISTRIBUTION.—Except as provided in subsections (b) and (c), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker’s nonimmigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker’s home country.

“(b) DISTRIBUTION IN THE EVENT OF DEATH.—If the temporary worker dies before the date determined under subsection (a), the balance in the worker’s account shall be distributed to the worker’s estate under rules established by the Secretary.”

(c) TEMPORARY WORKER INVESTMENT ACCOUNT TRANSFERS SHOWN ON W-2s.—

(1) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking “and” at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting “; and”; and

(C) by inserting after paragraph (13) the following:

“(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker’s temporary worker investment account under section 201(o) of such Act.”

(2) CONFORMING AMENDMENTS.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting “and paid as tax under section 3111” after “section 3101”; and

(B) in subsection (c), by inserting “and paid as tax under section 3111” after “section 3101”.

**Subtitle G—Backlog Reduction**

**SEC. 461. EMPLOYMENT BASED IMMIGRANTS.**

(a) EMPLOYMENT-BASED IMMIGRANT LIMIT.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

“(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

“(1) 140,000;

“(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

“(3) the difference between—

“(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those years; and

“(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005; and

“(4) the number of visas previously made available under section 203(e).”

(b) DIVERSITY VISA TERMINATION.—The allocation of immigrant visas to aliens under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)), and the admission of such aliens to the United States as immigrants, is terminated. This provision shall become effective on October 1st of the fiscal year following enactment of this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Immigration Task Force (referred to in this section as the “Task Force”).

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the impact of the delay between the date on which an application for immigration is submitted and the date on which a determination on such application is made;

(B) to study the impact of immigration of workers to the United States on family unity; and

(C) to provide to Congress any recommendations of the Task Force regarding increasing the number immigrant visas issued by the United States for family members and on the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

**SEC. 462. COUNTRY LIMITS.**

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking “, (4), and (5)” and inserting “and (4)”; and

(B) by striking “7 percent (in the case of a single foreign state) or 2 percent” and inserting “10 percent (in the case of a single foreign state) or 5 percent”; and

(2) by striking paragraph (5).

**SEC. 463. ALLOCATION OF IMMIGRANT VISAS.**

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “10 percent”; and

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “10 percent”; and

(3) in paragraph (3)(A)—

(A) by striking “28.6 percent” and inserting “35 percent”; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking “7.1 percent” and inserting “4 percent”; and

(7) by inserting after paragraph (4), as redesignated, the following:

“(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 36 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States”; and

(8) by striking paragraph (6).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(M)) is amended by striking “subject to the numerical limitations of section 203(b)(4).”

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS’ VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1153 note) is repealed.

**Subtitle H—Temporary Agricultural Workers**  
**SEC. 471. SENSE OF THE SENATE ON TEMPORARY AGRICULTURAL WORKERS.**

It is the sense of the Senate that consideration of any comprehensive immigration reform during the 109th Congress will include agricultural workers.

**SA 3544.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

“(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien’s employer.

“(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

“(A) is physically present in the United States; and

“(B) the alien establishes that the alien—  
“(i) meets the requirements of section 312;

“(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

“(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

“(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

“(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien’s lawful permanent residence.

“(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section

in accordance with any other provision of law.”.

**SA 3545.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 283, strike lines 23 through 25.

**SA 3546.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

“(n) Notwithstanding any other provision of this Act, an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) is ineligible for and may not apply for adjustment of status under this section on the basis of such status.”.

**SA 3547.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (a) of section 403, insert the following:

(3) LIMITATION ON GRANTING OF VISAS TO H-2C NONIMMIGRANTS.—Notwithstanding any other provision of this Act or the amendments made by this Act, the Secretary may not grant a temporary visa to an alien described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as amended by section 402(a), pursuant to section 218A of the Immigration and Nationality Act, as amended by paragraph (1), until after the date that the Secretary certifies to Congress that—

(A) the Electronic Employment Verification System described in section 274A of the Immigration and Nationality Act, as amended by section 301(a), is fully operational;

(B) the number of full-time employees who investigate compliance with immigration laws related to the hiring of aliens within the Department is increased by not less than 2,000 more than the number of such employees within the Department on the date of the enactment of this Act and that such employees have received appropriate training;

(C) the number of full-time, active-duty border patrol agents within the Department is increased by not less than 2,500 more than the number of such agents within the Department on the date of the enactment of this Act; and

(D) additional detention facilities to detain unlawful aliens apprehended in United States have been constructed or obtained and the personnel to operate such facilities have been hired, trained, and deployed so that the number of detention bed spaces available is increased by not less than 2,000 more than the number of such beds available on the date of the enactment of this Act.

**SA 3548.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and

for other purposes; which was ordered to lie on the table; as follows:

Strike titles III, IV, V, and insert the following:

**TITLE III—NONPARTISAN COMMISSION ON IMMIGRATION REFORM**

**SEC. 301. NONPARTISAN COMMISSION ON IMMIGRATION REFORM.**

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—

(1) ESTABLISHMENT.—Not later than May 1, 2006, the President shall establish a commission to be known as the Nonpartisan Commission on Immigration Reform (in this section referred to as the “Commission”).

(2) COMPOSITION.—The Commission shall be composed of 9 members to be appointed as follows:

(A) 1 member who shall serve as Chairman, to be appointed by the President.

(B) 2 members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the House of Representatives.

(C) 2 members to be appointed by the minority leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the House of Representatives.

(D) 2 members to be appointed by the majority leader of the Senate who shall select such members from a list of nominees provided by the chairman of the Committee on the Judiciary of the Senate.

(E) 2 members to be appointed by the minority leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Committee on the Judiciary of the Senate.

(3) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made during the 45-day period beginning on May 1, 2006.

(4) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) TERM OF APPOINTMENT.—Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (2)(A) shall expire at noon on January 20, 2008, and the President shall appoint an individual to serve for the remaining life, if any, of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c);

(2) conduct a systematic and comprehensive review of this Nation’s immigration laws, in accordance with subsection (c); and

(3) transmit to the Congress—

(A) not later than April 15, 2008, a first report describing the progress made in carrying out paragraphs (1) and (2); and

(B) not later than April 15, 2010, a final report setting forth the Commission’s findings and recommendations, including such recommendations for additional comprehensive changes that should be made with respect to immigration laws in the United States as the Commission deems appropriate, including, when applicable, such model legislative language for the consideration of Congress.

(c) CONSIDERATIONS.—

(1) GENERAL CONSIDERATIONS.—The Commission may investigate and make recommendations upon any subject that it determines would substantially contribute to the development of an equitable, efficient, and sustainable immigration system that will facilitate border security specifically and national security generally.

(2) GUEST WORKER PROGRAM.—The Commission shall analyze and make recommendations on the advisability of modifying the requirements for admission of nonimmigrants described in section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)), including increasing the number of such nonimmigrants admitted to the United States and adopting a national guest worker program, and if, in the opinion of this Commission, such a modification or program should be adopted, then the Commission shall—

(A) set forth minimum requirements for such modification or program, including—

(i) the numerical limitations, if any, on such a program; and

(ii) the temporal limitations (in terms of participant duration), if any, on such a program;

(B) assess the impact and advisability of allowing aliens admitted under such section or participating in such a program to adjust their status from nonimmigrant to immigrant classifications; and

(C) determine whether and, if appropriate, to what degree, low-skilled enterprises should be included in a national guest worker program.

(3) PROJECT SUNSHINE.—The Commission shall analyze and make recommendations on the disposition of the unlawful alien population present in the United States, and such report shall—

(A) examine the impact of earned adjustment, amnesty, or similar programs on future illegal immigration;

(B) examine the ability, and advisability, of the United States Government to locate and deport individuals unlawfully present in the United States;

(C) assess the impact, advisability, and ability of earned adjustment, amnesty, or similar programs to locate and register individuals unlawfully present in the United States; and

(D) provide alternate solutions, if any, to the realm of options otherwise mentioned in this section.

(4) JUDICIAL REVIEW.—The Commission shall examine the operation of the relevant adjudicatory structures and mechanisms and make such recommendations as are necessary to ensure expediency of process consistent with applicable constitutional protections.

(5) INTERIOR ENFORCEMENT.—The Commission shall analyze current interior enforcement efforts and make such recommendations as are necessary to ensure viable interior enforcement, including issues surrounding worksite enforcement and the impact of inadequate interior enforcement on rural communities.

(d) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99-603; 8 U.S.C. 1160 note) shall apply to the Commission in the same manner as they apply to the Commission established under

such section, except that paragraph (2) of such subsection (e) shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(3)(B), except that the Commission may continue to function until January 1, 2012, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

**SA 3549.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 243, line 3, strike “under section 248”.

**SA 3550.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . EFFECTIVE DATE.**

Notwithstanding any other provision in this Act, or the amendments made by this Act, titles III, IV, V, and VI of this Act, or the amendments made by such titles, shall not take effect until Congress has appropriated sufficient funds to fully implement the border security and interior enforcement provisions in titles I and II of this Act.

**SA 3551.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 1 RECAPTURE AND REALLOCATION OF UNUSED VISAS.**

If the numerical limitation for visas described in 101(a)(15)(H)(i)(b) has been reached for fiscal year 2006 or a subsequent fiscal year, such numerical limitation shall be supplemented in a number equal to the number of H-2C visas, if any, not issued during the relevant fiscal year.

**SA 3552.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.**

Notwithstanding any other provision of law, for purposes of determining eligibility

for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and re-assigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

**SA 3553.** Mr. BROWBACK submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 346, line 4, insert “(other than subparagraph (C)(i)(II) of such paragraph (9))” after “212(a)”.

On page 347, strike lines 9 through 12, and insert the following:

“(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

“(A) a final order of removal under section 217, 235, 238, or 240 has been entered against the alien on or before the date of enactment of this Act, or a removal proceeding pursuant to section 217, 235, 238, or 240 has been commenced on or before the date of enactment of this Act;

“(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

“(C) the Secretary of Homeland Security determines that—

“(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

“(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

“(D) the alien has been convicted of any felony or three or more misdemeanors; or

“(E) the alien willfully fails to comply with any request for information by the Secretary of Homeland Security.

**SA 3554.** Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.**

Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended—

(1) by striking “the date of the enactment of the Legal Immigration Family Equity Act” and inserting “January 1, 2011”; and

(2) by striking “3 years” each place it appears and inserting “180 days”.

**SA 3555.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . . DISCRETIONARY AUTHORITY.**

Section 212(i) (8 U.S.C. 1182(i)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2)(A) The Secretary of Homeland Security may waive the application of subsection (a)(6)(C)—

“(i) in the case of an immigrant who is the spouse, parent, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if the Secretary of Homeland Security determines that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse, child, son, daughter, or parent of such an alien; or

“(ii) in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), if—

“(I) the alien demonstrates extreme hardship to the alien or the alien’s parent or child; and

“(II) such parent or child is a United States citizen, a lawful permanent resident, or a qualified alien.

“(B) An alien who is granted a waiver under subparagraph (A) shall pay a \$2,000 fine.”.

**SA 3556.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . . . FAMILY UNITY.**

Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended—

(1) in subparagraph (C)(ii), by striking “between—” and all that follows and inserting the following: “between—

“(I) the alien having been battered or subjected to extreme cruelty; and

“(II) the alien’s removal, departure from the United States, reentry or reentries into the United States, or attempted reentry into the United States.”; and

(2) by adding at the end the following:

“(D) WAIVER.—

“(i) IN GENERAL.—The Secretary may waive the application of subparagraphs (B) and (C) for an alien who is a beneficiary of a petition filed under section 201 or 203 if such petition was filed not later than the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(ii) FINE.—An alien who is granted a waiver under clause (i) shall pay a \$2,000 fine.”.

**SA 3557.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which

was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 234. DETENTION STANDARDS.**

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

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

**SA 3558.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 233. DETENTION OF ILLEGAL ALIENS.**

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking “8,000” and inserting “20,000”.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all

possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien’s reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien’s detention facility without providing that alien and the alien’s attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

**SA 3559.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law

108-458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

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

(A) consider current and proposed aerial surveillance technologies;

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

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

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

(3) ADDITIONAL REQUIREMENTS.—

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

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

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

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

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

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

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

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

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

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveil-

lance Program is carried out in a manner that—

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

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

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

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

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

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

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

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

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

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

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

(4) EVALUATION OF CONTRACTORS.—

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

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

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

**SA 3560.** Mr. NELSON of Florida submitted an amendment intended to be

proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 18, strike “500” and insert “1,500”.

On page 7, line 2, strike “1000” and insert “2,000”.

On page 7, line 10, strike “200” and insert “400”.

On page 8, strike lines 9 through 15 and insert the following:

preceding fiscal year), by 4,000 for each of fiscal years 2006 through 2011.

At the appropriate place, insert the following:

(c) DETENTION AND REMOVAL OFFICERS.—

(1) IN GENERAL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purposes, designate a Detention and Removal officer to be placed in each Department field office whose sole responsibility will be to ensure safety and security at a detention facility and that each detention facility comply with the standards and regulations required by paragraphs (2), (3), and (4).

(2) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(3) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in paragraph (2) shall—

(A) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(B) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(4) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

(d) LEGAL PERSONNEL.—During each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase the number of positions for attorneys in the Office of General Counsel of the Department by at least 200 to represent the Department in immigration matters for the fiscal year.

**SEC. 102. DEPARTMENT OF JUSTICE PERSONNEL; DEFENSE ATTORNEYS.**

(a) IN GENERAL.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, add—

(1) at least 50 positions for attorneys in the Office of Immigration Litigation of the Department of Justice for the fiscal year;

(2) at least 50 United States Attorneys to litigate immigration cases in the Federal courts for the fiscal year;

(3) at least 200 Deputy United States Marshals to investigate criminal immigration matters for the fiscal year; and

(4) at least 50 immigration judges for the fiscal year.

(b) DEFENSE ATTORNEYS.—

(1) IN GENERAL.—During each of fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, add at least 200 attorneys in the Federal Defenders Program for the fiscal year.

(2) PRO BONO REPRESENTATION.—The Attorney General shall also take all necessary and reasonable steps to ensure that alien detainees receive appropriate pro bono representation in immigration matters.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as are necessary to carry out this section, including the costs of hiring necessary support staff.

At the appropriate place, insert the following:

**SEC. 234. DETENTION POLICY.**

(a) DIRECTORATE OF POLICY.—The Secretary shall in consultation, with the Director of Policy of the Directorate of Policy, add at least 3 additional positions at the Directorate of Policy that—

(1) shall be a position at GS-15 of the General Schedule;

(2) are solely responsible for formulating and executing the policy and regulations pertaining to vulnerable detained populations including unaccompanied alien children, victims of torture, trafficking or other serious harms, the elderly, the mentally disabled, and the infirm; and

(3) require background and expertise working directly with such vulnerable populations.

(b) ENHANCED PROTECTIONS FOR VULNERABLE UNACCOMPANIED ALIEN CHILDREN.—

(1) MANDATORY TRAINING.—The Secretary shall mandate the training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, and procedures pertaining to this vulnerable population in consultation with the head of the Office of Refugee Resettlement of the Department of Health and Human Services and independent child welfare experts.

(2) DELEGATION TO THE OFFICE OF REFUGEE RESETTLEMENT.—Notwithstanding any other provision of law, the Secretary shall delegate the authority and responsibility granted to the Secretary by the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) for transporting unaccompanied alien children who will undergo removal proceedings from Department custody to the custody and care of the Office of Refugee Resettlement and provide sufficient reimbursement to the head of such Office to undertake this critical function. The Secretary shall immediately notify such Office of an unaccompanied alien child in the custody of the Department and ensure that the child is transferred to the custody of such Office as soon as practicable, but not later than 72 hours after the child is taken into the custody of the Department.

(3) OTHER POLICIES AND PROCEDURES.—The Secretary shall further adopt important policies and procedures—

(A) for reliable age-determinations of children which exclude the use of fallible forensic testing of children's bones and teeth in consultation with medical and child welfare experts;

(B) to ensure the privacy and confidentiality of unaccompanied alien children's records, including psychological and medical reports, so that the information is not used adversely against the child in removal proceedings or for any other immigration action; and

(C) in close consultation with the Secretary of State and the head of the Office of Refugee Resettlement, to ensure the safe and secure repatriation of unaccompanied alien children to their home countries including through arranging placements of children with their families or other sponsoring agencies and to utilize all legal authorities to defer the child's removal if the child faces a clear risk of life-threatening harm upon return.

On page 228, line 18, strike "2,000" and insert "4,000".

On page 229, line 1, strike "1,000" and insert "2,000".

**SA 3561.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

(a) AERIAL SURVEILLANCE PROGRAM.—

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

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

(A) consider current and proposed aerial surveillance technologies;

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

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

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

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas lo-

cated on or near an international border of the United States, in order to evaluate, for a range of circumstances—

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

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

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

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

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

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

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) EVALUATION OF CONTRACTORS.—

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

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

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

**SA 3562.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 233. DETENTION OF ILLEGAL ALIENS.**

(a) INCREASING DETENTION BED SPACE.—Section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended by striking “8,000” and inserting “20,000”.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the

Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ALTERNATIVES TO DETENTION TO ENSURE COMPLIANCE WITH THE LAW.—The Secretary shall implement demonstration programs in each State located along the international border between the United States and Canada or along the international border between the United States and Mexico, and at select sites in the interior with significant numbers of alien detainees, to study the effectiveness of alternatives to the detention of aliens, including electronic monitoring devices, to ensure that such aliens appear in immigration court proceedings and comply with immigration appointments and removal orders.

(d) LEGAL REPRESENTATION.—No alien shall be detained by the Secretary in a location that limits the alien's reasonable access to visits and telephone calls by local legal counsel and necessary legal materials. Upon active or constructive notice that a detained alien is represented by an attorney, the Secretary shall ensure that the alien is not moved from the alien's detention facility without providing that alien and the alien's attorney reasonable notice in advance of such move.

(e) FUNDING TO CONSTRUCT OR ACQUIRE DETENTION FACILITIES.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

(f) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

**SA 3563.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 234. DETENTION STANDARDS.**

(a) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the

Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(b) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (a) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(c) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

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

**SA 3564.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 26, strike “250” and insert “1,500”.

On page 5, line 24, strike “1000” and insert “2,000”.

On page 6, line 8, strike “200” and insert “400”.

On page 5, strike line 17 and insert “4000.” At the appropriate place, insert the following:

(c) DETENTION AND REMOVAL OFFICERS.—

(1) IN GENERAL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purposes, designate a Detention and Removal officer to be placed in each Department field office whose sole responsibility will be to ensure safety and security at a detention facility and that each detention facility comply with the standards and regulations required by paragraphs (2), (3), and (4).

(2) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(3) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in paragraph (2) shall—

(A) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(B) establish specific standards for detaining nuclear family units together and for detaining non-criminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(4) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent non-profit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

(d) LEGAL PERSONNEL.—During each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase the number of positions for attorneys in the Office of General Counsel of the Department by at least 200 to represent the Department in immigration matters for the fiscal year.

**SEC. 102. DEPARTMENT OF JUSTICE PERSONNEL; DEFENSE ATTORNEYS.**

(a) IN GENERAL.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, add—

(1) at least 50 positions for attorneys in the Office of Immigration Litigation of the Department of Justice for the fiscal year;

(2) at least 50 United States Attorneys to litigate immigration cases in the Federal courts for the fiscal year;

(3) at least 200 Deputy United States Marshals to investigate criminal immigration matters for the fiscal year; and

(4) at least 50 immigration judges for the fiscal year.

(b) DEFENSE ATTORNEYS.—

(1) IN GENERAL.—During each of fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, add at least 200 attorneys in the Federal Defenders Program for the fiscal year.

(2) PRO BONO REPRESENTATION.—The Attorney General shall also take all necessary and reasonable steps to ensure that alien detainees receive appropriate pro bono representation in immigration matters.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of fiscal years 2007 through 2011 such sums as are necessary to carry out this section, including the costs of hiring necessary support staff.

At the appropriate place, insert the following:

**SEC. 234. DETENTION POLICY.**

(a) DIRECTORATE OF POLICY.—The Secretary shall in consultation, with the Director of Policy of the Directorate of Policy, add at least 3 additional positions at the Directorate of Policy that—

(1) shall be a position at GS-15 of the General Schedule;

(2) are solely responsible for formulating and executing the policy and regulations pertaining to vulnerable detained populations including unaccompanied alien children, victims of torture, trafficking or other serious harms, the elderly, the mentally disabled, and the infirm; and

(3) require background and expertise working directly with such vulnerable populations.

(b) ENHANCED PROTECTIONS FOR VULNERABLE UNACCOMPANIED ALIEN CHILDREN.—

(1) MANDATORY TRAINING.—The Secretary shall mandate the training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, and procedures pertaining to this vulnerable population in consultation with the head of the Office of Refugee Resettlement of the Department of Health and Human Services and independent child welfare experts.

(2) DELEGATION TO THE OFFICE OF REFUGEE RESETTLEMENT.—Notwithstanding any other provision of law, the Secretary shall delegate the authority and responsibility granted to the Secretary by the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) for transporting unaccompanied alien children who will undergo removal proceedings from Department custody to the custody and care of the Office of Refugee Resettlement and provide sufficient reimbursement to the head of such Office to undertake this critical function. The Secretary shall immediately notify such Office of an unaccompanied alien child in the custody of the Department and ensure that the child is transferred to the custody of such Office as soon as practicable, but not later than 72 hours after the child is taken into the custody of the Department.

(3) OTHER POLICIES AND PROCEDURES.—The Secretary shall further adopt important policies and procedures—

(A) for reliable age-determinations of children which exclude the use of fallible forensic testing of children's bones and teeth in consultation with medical and child welfare experts;

(B) to ensure the privacy and confidentiality of unaccompanied alien children's records, including psychological and medical reports, so that the information is not used adversely against the child in removal proceedings or for any other immigration action; and

(C) in close consultation with the Secretary of State and the head of the Office of Refugee Resettlement, to ensure the safe and secure repatriation of unaccompanied alien children to their home countries including through arranging placements of children with their families or other sponsoring agencies and to utilize all legal authorities to defer the child's removal if the child faces a clear risk of life-threatening harm upon return.

On page 203, line 10, strike "2,000" and insert "4,000".

On page 203, line 18, strike "1,000" and insert "2,000".

**SA 3565.** Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SCREENING OF MUNICIPAL SOLID WASTE.**

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term "Bureau" means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term "municipal solid waste" includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

**SA 3566.** Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike lines 16 through 18 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking "or (VI)" and inserting "(V), (VI), (VII), or (VIII)"; and

(B) by adding at the end the following:

"(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality."; and

(2) in subsection (c)(2)(A), by striking "a fundamental change in circumstances" and inserting "fundamental and lasting changes that have stabilized the country of the alien's nationality".

**SA 3567.** Mr. LEVIN (for himself, Mr. KENNEDY, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”;

(B) by adding at the end the following:

“(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien’s nationality.”; and

(2) in subsection (c)(2)(A), by striking “a fundamental change in circumstances” and inserting “fundamental and lasting changes that have stabilized the country of the alien’s nationality”.

**SA 3568.** Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SCREENING OF MUNICIPAL SOLID WASTE.**

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term “Bureau” means the Bureau of Customs and Border Protection.

(2) COMMERCIAL MOTOR VEHICLE.—The term “commercial motor vehicle” has the meaning given the term in section 31101 of title 49, United States Code.

(3) COMMISSIONER.—The term “Commissioner” means the Commissioner of the Bureau.

(4) MUNICIPAL SOLID WASTE.—The term “municipal solid waste” includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and

(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the

Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

**SA 3569.** Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 33, strike lines 1 through 15 and insert the following:

**SEC. 122. SECURE COMMUNICATION.**

(a) IN GENERAL.—The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

(b) COMMUNICATION SYSTEM GRANTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term “demonstration project” means the demonstration project established under paragraph (2)(A); and

(B) the term “emergency response provider” has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(2) IN GENERAL.—

(A) ESTABLISHMENT.—There is established in the Department an International Border Community Interoperable Communications Demonstration Project.

(B) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in the demonstration project.

(C) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) PROJECT REQUIREMENTS.—The demonstration project shall—

(A) address the interoperable communications needs of border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(B) foster interoperable communications—

(i) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(ii) with similar agencies in Canada and Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of interoperable communications equipment;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each other and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(G) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall distribute funds under this subsection to each community participating in the demonstration project through the State, or States, in which each community is located.

(B) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to the local governments and emergency response providers participating in the demonstration project, as selected by the Secretary.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this subsection.

(6) REPORTING.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for the demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration project.

**SA 3570.** Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 11 and 12, insert the following:

**SEC. 131. COMMUNICATION SYSTEM GRANTS.**

(a) DEFINITIONS.—In this section—

(1) the term “demonstration project” means the demonstration project established under subsection (b)(1); and

(2) the term “emergency response provider” has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(b) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department an International Border Community Interoperable Communications Demonstration Project.

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in the demonstration project.

(3) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(c) PROJECT REQUIREMENTS.—The demonstration project shall—

(1) address the interoperable communications needs of border patrol agents and other

Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(2) foster interoperable communications—  
(A) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(B) with similar agencies in Canada and Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable communications equipment;

(5) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(6) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(7) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(8) identify and secure appropriate joint-use equipment to ensure communications access.

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in the demonstration project through the State, or States, in which each community is located.

(2) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under paragraph (1), a State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in the demonstration project, as selected by the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this section.

(f) REPORTING.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for the demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration project.

**SA 3571.** Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285, line 9, and insert the following:

“(n) Notwithstanding any other provision of this Act, an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) is ineligible for and may not apply for adjustment of status under this section on the basis of such status.”.

**SA 3572.** Mr. CORNYN submitted an amendment intended to be proposed to

amendment SA 3311 submitted by Mr. KYL (for himself and Mr. CORNYN) and intended to be proposed to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 283, strike line 17 and all that follows through page 285 and insert the following:

“(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa by the alien’s employer.

“(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

“(A) is physically present in the United States; and

“(B) the alien establishes that the alien—

“(i) meets the requirements of section 312; or

“(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

“(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

“(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

“(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien’s lawful permanent residence.

“(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.”.

**SA 3573.** Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 347, strike line 13 and all that follows through page 350, line 3, and insert the following:

“(c) TREATMENT OF APPLICATIONS DURING REMOVAL PROCEEDINGS.—Notwithstanding any provision of this Act, an alien who is in removal proceedings shall have an opportunity to apply for a grant of status under this title unless a final administrative determination has been made.

**SA 3574.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 347, strike lines 9 through 12, and insert the following:

“(6) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

“(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

“(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

“(C) the Secretary of Homeland Security determines that—

“(i) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

“(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

“(D) the alien has been convicted of any felony or three or more misdemeanors; or

“(E) the alien willfully fails to comply with any request for information by the Secretary of Homeland Security.

**SA 3575.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 4 and all that follows through page 351, line 12.

**SA 3576.** Mr. LAUTENBERG (for himself, Mr. REID, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —FAMILY HUMANITARIAN RELIEF**  
**SEC. 1. SHORT TITLE.**

This title may be cited as the “September 11 Family Humanitarian Relief and Patriotism Act”.

**SEC. 02. ADJUSTMENT OF STATUS FOR CERTAIN NONIMMIGRANT VICTIMS OF TERRORISM.**

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment not later than 2 years after the date on which the Secretary promulgates final regulations to implement this section; and

(B) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) RULES IN APPLYING CERTAIN PROVISIONS.—

(A) IN GENERAL.—In the case of an alien described in subsection (b) who is applying for adjustment of status under this section—

(i) the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply; and

(ii) the Secretary of Homeland Security may grant the alien a waiver on the grounds

of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(B) STANDARDS.—In granting waivers under subparagraph (A)(ii), the Secretary shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) APPLICATION PERMITTED.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

(C) EFFECT OF DECISION.—If the Secretary of Homeland Security grants a request under subparagraph (A), the Secretary shall cancel the order. If the Secretary renders a final administrative decision to deny the request, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on September 10, 2001;

(2) was, on such date, the spouse, child, dependent son, or dependent daughter of an alien who—

(A) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on such date; and

(B) died as a direct result of a specified terrorist activity; and

(3) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Homeland Security shall establish, by regulation, a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Secretary of Homeland Security shall authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

**SEC. 03. CANCELLATION OF REMOVAL FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.**

(a) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b), the Secretary of Homeland Security shall, under such section 240A, cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b), if the alien applies for such relief.

(b) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity; and

(2) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Homeland Security shall provide by regulation for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) WORK AUTHORIZATION.—The Secretary of Homeland Security shall authorize an alien who has applied for cancellation of removal under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) MOTIONS TO REOPEN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen removal proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), any alien who has become eligible for cancellation of removal as a result of the enactment of this section may file 1 motion to reopen removal proceedings to apply for such relief.

(2) FILING PERIOD.—The Secretary of Homeland Security shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of enactment of this Act and shall extend for a period not to exceed 240 days.

**SEC. 04. EXCEPTIONS.**

Notwithstanding any other provision of this title, an alien may not be provided relief under this title if the alien is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or deportable under paragraph (2) or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)), including any individual culpable for a specified terrorist activity; or

(2) a family member of an alien described in paragraph (1).

**SEC. 05. EVIDENCE OF DEATH.**

For purposes of this title, the Secretary of Homeland Security shall use the standards established under section 426 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (115 Stat. 362) in determining whether death occurred as a direct result of a specified terrorist activity.

**SEC. 06. DEFINITIONS.**

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions used in the Immigration and Na-

tionality Act (8 U.S.C. 1101 et seq.), other than the definitions applicable exclusively to title III of such Act, shall apply in the administration of this title.

(b) SPECIFIED TERRORIST ACTIVITY.—For purposes of this title, the term "specified terrorist activity" means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

**SA 3577.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 347, strike lines 9 through 12, and insert the following:

"(6) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

"(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

"(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

"(C) the Secretary of Homeland Security determines that—

"(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

"(D) the alien has been convicted of any felony or three or more misdemeanors; or

"(E) the alien has entered, the U.S. pursuant to section 217 and overstayed the period authorized admission, has been ordered removed under section 235 or 238, or is subject to a final order of removal under section 240.

**SA 3578.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

**SEC. 04. SOUTHWEST BORDER PROSECUTION INITIATIVE**

(a) REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR PROSECUTING FEDERALLY-INITIATED DRUG CASES.—The Attorney General shall, subject to the availability of appropriations, reimburse Southern Border State and county prosecutors for prosecuting federally initiated and referred drug cases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$50,000,000 for each of the fiscal years 2007 through 2012 to carryout subsection (a).

**SA 3579.** Ms. MIKULSKI (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 04. EXTENSION OF RETURNING WORKER EXEMPTION.**

Section 402(b)(1) of the Save Our Small and Seasonal Businesses Act of 2005 (title IV of

division B of Public Law 109-13; 8 U.S.C. 1184 note) is amended by striking "2006" and inserting "2009".

**SA 3580.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. \_\_\_\_ . FAIRNESS IN THE STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM.**

(a) **REDUCED FEE FOR SHORT-TERM STUDY.**—

(1) **IN GENERAL.**—Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended by striking the second sentence and inserting "Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed \$100, except that in the case of an alien admitted under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed \$35 and that in the case of an alien admitted under subparagraph (F) of such section 101(a)(15) for a program that will not exceed 90 days, the fee shall not exceed \$35."

(2) **TECHNICAL AMENDMENTS.**—Such section 641(e)(4)(A) is further amended—

(A) in the first sentence, by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(B) in the third sentence, by striking "Attorney General's" and inserting "Secretary's".

(b) **RECREATIONAL COURSES.**—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Secretary of State shall issue appropriate guidance to consular officers to in order to give appropriate discretion, according to criteria developed at each post and approved by the Secretary of State, so that a course of a duration no more than 1 semester (or its equivalent), and not awarding certification, license or degree, is considered recreational in nature for purposes of determining appropriateness for visitor status.

**SA 3581.** Mr. COLEMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

**SEC. \_\_\_\_ . NORTH AMERICAN TRAVEL CARDS.**

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

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and the United States and Mexico, with approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued an estimated 10,100,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued

in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) **NORTH AMERICAN TRAVEL CARDS.**—

(1) **ISSUANCE.**—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall, not later than December 31, 2007, issue to a citizen of the United States who submits an application in accordance with paragraph (4) a travel document that will serve as a North American travel card.

(2) **APPLICABILITY.**—A North American travel card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(3) **LIMITATION ON USE.**—A North American travel card may only be used for the purpose of international travel by United States citizens through land border ports of entry, including ferries, between the United States and Canada and the United States and Mexico.

(4) **APPLICATION FOR ISSUANCE.**—To be issued a North American travel card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the same information as is required to determine citizenship, identity, and eligibility for issuance of a United States passport.

(5) **TECHNOLOGY.**—

(A) **EXPEDITED TRAVELER PROGRAMS.**—To the maximum extent practicable, a North American travel card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as NEXUS, NEXUS AIR, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the technology to add expedited travel features to the North American travel card is not developed by that date.

(B) **TECHNOLOGY.**—The Secretary of Homeland Security and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department of Homeland Security, allows for future technological innovations, and ensures maximum facilitation at the northern and southern border.

(6) **SPECIFICATIONS FOR CARD.**—A North American travel card shall be easily portable and durable. The Secretary of State and the Secretary of Homeland Security shall consult regarding the other technical specifications of the card, including whether the security features of the card could be combined with other existing identity documentation.

(7) **FEE.**—Except as in provided in paragraph (8), an applicant for a North American travel card shall submit an application under paragraph (4) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Fees for a North American travel card shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended. The fee for the North American travel card shall not exceed \$20, of which not more than \$2 shall be allocated to the United States Postal Service for postage and other application processing functions. Such fee shall be waived for children under 16 years of age.

(c) **FOREIGN COOPERATION.**—In order to maintain and encourage cross-border travel and trade, the Secretary of State and the Secretary of Homeland Security shall use all possible means to coordinate with the appro-

priate representatives of foreign governments to encourage their citizens and nationals to possess, not later than the date at which the certification required by subsection (j) is made, appropriate documentation to allow such citizens and nationals to cross into the United States.

(d) **PUBLIC PROMOTION.**—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the North American travel card and to facilitate the acquisition of a passport or North American travel card. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the establishment of at least 200 new passport acceptance facilities, with emphasis on facilities located near international borders;

(4) the collection and analysis of data to measure the success of the public promotion plan; and

(5) additional measures as appropriate.

(e) **ACCESSIBILITY.**—In order to make the North American travel card easily obtainable, an application for a North American travel card shall be accepted in the same manner and at the same locations as an application for a passport.

(f) **EXPEDITED TRAVEL PROGRAMS.**—To the maximum extent practicable, the Secretary of Homeland Security shall expand expedited traveler programs carried out by the Secretary to all ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be entered into a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists.

(g) **ALTERNATIVE OPTIONS.**—

(1) **IN GENERAL.**—In order to give United States citizens as many secure, low-cost options as possible for travel within the Western Hemisphere, the Secretary of Homeland Security shall continue to pursue additional alternative options, such as NEXUS, to a passport that meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act (Public Law 108-458; 8 U.S.C. 1185 note).

(2) **FEASIBILITY STUDY.**—Not later than 120 days after the date of enactment of this Act, the Congressional Budget Office shall submit to the Committee on Homeland Security and Government Affairs and the Committee on Foreign Relations of the Senate and the Committee on Homeland Security and the Committee on International Relations of the House of Representatives, a study on the feasibility of incorporating into a driver's license, on a voluntary basis, information about citizenship, in a manner that enables a driver's license which meets the requirements of the REAL ID Act of 2005 (division B of Public Law 109-13) to serve as an acceptable alternative document to meet the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act. Such

study shall include a description of how such a program could be implemented, and shall consider any cost advantage of such an approach.

(h) IDENTIFICATION PROCESS.—The Secretary of Homeland Security shall have appropriate authority to develop a process to ascertain the identity of and make admissibility determinations for individuals who arrive at the border without proper documentation.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a North American travel card.

(j) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note) until the date that is 3 months after the Secretary of State and the Secretary of Homeland Security certify to Congress that—

(1) North American travel cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending not earlier than 10 days prior to the date of certification;

(2) North American travel cards are provided to applicants, on average, within 4 weeks of application;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept North American travel cards at all United States border crossings;

(4) the outreach plan described in subsection (d) has been implemented and deemed to have been successful according to collected data; and

(5) a successful pilot has demonstrated the effectiveness of the North American travel card program.

(k) REPORTS.—

(1) REPORTS ON THE ISSUANCE OF NORTH AMERICAN TRAVEL CARDS.—The Secretary of State shall, on a quarterly basis during the first year of issuance of North American travel cards, submit to Congress a report containing information relating to the number of North American travel cards issued during the immediately preceding quarter or year, as appropriate, and the number of United States citizens in each State applying for such cards.

(2) REPORT ON PRIVATE COLLABORATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State and the Secretary shall report to Congress on their efforts to solicit policy suggestions and the incorporation of such suggestions into the implementation strategy from the private sector on the implementation of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note). The report should include the private sector's recommendations concerning how air, sea, and land travel between countries in the Western Hemisphere can be improved in a manner that establishes the proper balance between national security, economic well being, and the particular needs of border communities.

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

**SA 3582.** Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr.

FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 32, between lines 5 and 6, insert the following:

(b) MOBILE IDENTIFICATION SYSTEM.—

(1) REQUIREMENT FOR SYSTEMS.—Not later than October 1, 2007, the Secretary shall deploy wireless, hand-held biometric identification devices, interfaced with United States Government immigration databases, at all United States ports of entry and along the international land borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$10,000,000 for fiscal year 2007 to carry out this subsection.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (2) shall remain available until expended.

**SA 3583.** Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 3424 proposed by Mr. FRIST to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 9, strike lines 2 through 9, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

**SA 3584.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 8 and 9, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multi-day training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

**SA 3585.** Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 333, strike line 10 and all that follows through page 360, line 6 and renumber all that follows accordingly.

Beginning on page 395, strike line 10 and all that follows through page 416, line 11 and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any non-immigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant Visa outside the United States.

**SA 3586.** Mr. ENSIGN (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 333, strike line 10 and all that follows through page 416, Line 11 and insert all that follows:

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by subsection (b)(1), is further amended by inserting after section 245B the following: “

**“SEC. 245C. MANDATORY DEPARTURE AND REENTRY.**

“(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

“(b) REQUIREMENTS.—An alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

“(1) PRESENCE.—The alien shall establish that the alien—

“(A) was physically present in the United States on January 7, 2004;

“(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

“(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

“(2) EMPLOYMENT.—

“(A) IN GENERAL.—The alien shall establish that the alien—

“(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before January 7, 2004; and

“(ii) has been continuously employed in the United States since that date, except for brief periods of unemployment lasting not longer than 60 days.

“(B) EVIDENCE OF EMPLOYMENT.—

“(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

“(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

“(II) an employer; or

“(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

“(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

“(I) bank records;

“(II) business records;

“(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

“(IV) remittance records.

“(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

“(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

“(3) ADMISSIBILITY.—

“(A) IN GENERAL.—The alien shall establish that such alien—

“(i) is admissible to the United States, except as provided as in (B); and

“(ii) has not assisted in the persecution of any person or persons on account of race, re-

ligion, nationality, membership in a particular social group, or political opinion.

“(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(4) INELIGIBLE.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

“(A) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

“(B) fails to comply with any request for information by the Secretary of Homeland Security.

“(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

“(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

“(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

“(B) the alien commits an act that makes the alien removable from the United States.

“(7) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

“(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

“(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date on which the application form is first made available.

“(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

“(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) ACKNOWLEDGMENT.—

“(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(A) an acknowledgment made in writing and under oath that the alien—

“(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(ii) understands the terms of the terms of Deferred Mandatory Departure;

“(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(C) any false or fraudulent documents in the alien's possession.

“(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

“(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

“(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

“(B) register with the Secretary of Homeland Security at the time of departure; and

“(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

“(3) APPLICATION FOR READMISSION.—

“(A) IN GENERAL.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has

departed from the United States in accordance with paragraph (2).

“(B) APPROVAL.—The Secretary may approve an application under subparagraph (A) during the period in which the alien is present in the United States under Deferred Mandatory Departure status.

“(C) US-VISIT.—An alien in Deferred Mandatory Departure status who is seeking admission as a nonimmigrant or immigrant alien may exit the United States and immediately reenter the United States at any land port of entry at which the US-VISIT exit and entry system can process such alien for admission into the United States.

“(D) INTERVIEW REQUIREMENTS.—Notwithstanding any other provision of law, any admission requirement involving in-person interviews at a consulate of the United States shall be waived for aliens granted Deferred Mandatory Departure status under this section.

“(E) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations under section 214 shall not apply to any alien who is admitted as a nonimmigrant under this paragraph.

“(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

“(A) deemed to have departed under this section upon the successful admission of the principal alien; and

“(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal alien without regard to numerical caps related to such visas.

“(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

“(A) is granted an immigrant or nonimmigrant visa; and

“(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

“(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

“(A) shall not be subject to section 212(a)(9)(B); and

“(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

“(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

“(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

“(B) a fine of \$2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

“(C) a fine of \$3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall

allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

“(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

“(ii) must establish at the time of application for admission that the alien is admissible under section 212.

“(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

“(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

“(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—

“(1) IN GENERAL.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

“(2) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

“(A) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

“(B) 8 years after the date of enactment of this section.

“(j) APPLICATION FEE.—

“(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of \$1,000.

“(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) FAMILY MEMBERS.—

“(1) IN GENERAL.—Subject subsection (f)(4), the spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

“(2) APPLICATION FEE.—

“(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of \$500.

“(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(l) EMPLOYMENT.—

“(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

“(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien's departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion

of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant to this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this subsection (b)(2), is further amended by inserting after the item relating to section 245B the following:

“245C. Mandatory Departure and Reentry.”.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)” after “imposed”.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) whose status is adjusted to that of lawful permanent resident under section

245B of the Immigration and Nationality Act.”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.”.

**Subtitle B—Agricultural Job Opportunities, Benefits, and Security**

**SEC. 611. SHORT TITLE.**

This subtitle may be cited as the “Agricultural Job Opportunities, Benefits, and Security Act of 2006” or the “AgJOBS Act of 2006”.

**SEC. 612. DEFINITIONS.**

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term “agricultural employment” means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term “job opportunity” means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a “temporary” basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term “United States worker” means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term “work day” means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of “man-day” under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

**CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS**

**SEC. 613. AGRICULTURAL WORKERS.**

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days, whichever is less, during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an “employment authorized” endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to \$100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal

Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an

arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employer's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—Upon return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant Visa outside the United States.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, April 6, 2006, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Health Care Coverage for Small Business: Challenges and Opportunities."

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

##### COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to

meet during the session on Thursday, April 6, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on "Saving for the 21st Century: Is America Saving Enough to be Competitive in the Global Marketplace?"

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 6, 2006, at 2 p.m. to hold a hearing on Nominations.

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

##### COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 6, 2006, at 10 a.m. in the Dirksen Senate Office Building Room 226.

#### I. Nominations

Norman Randy Smith, to be U.S. Circuit Judge for the Ninth Circuit; Steven G. Bradbury, to be an Assistant Attorney General for the Office of Legal Counsel; Timothy Anthony Junker, to be United States Marshal for the Northern District of Iowa.

#### II. Bills

S. 489, Federal Consent Decree Fairness Act, Alexander, Kyl, Cornyn, Graham, Hatcher;

S. 2039, Prosecutors and Defenders Incentive Act of 2005, Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer;

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges, Specter, Leahy, Cornyn, Feinstein, Biden;

S. 2453, National Security Surveillance Act of 2006, Specter;

S. 2455, Terrorist Surveillance Act of 2006, DeWine, Graham;

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes, Schumer.

#### III. Matters

S.J. Res. 1, Marriage Protection Amendment, Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback;

S. Res. 398, A resolution relating to the censure of George W. Bush, Feingold.

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

##### COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Orphan Works: Proposals for a Legislative Solution" on Thursday, April 6, 2006, at 2 p.m. in Room 226 of the Dirksen Senate Office Building.