''(C) verifies the identity of the alien through the use of at least 1 biometric identifier.

''(2) REQUIREMENTS.—The document required for all aliens authorized to be an H–2A worker—

''(A) shall be capable of reliably determining whether the individual with the document—

''(i) is eligible for employment as an H–2A worker;

''(ii) is not claiming the identity of another person; and

''(iii) is authorized to be admitted into the United States; and

''(B) shall be compatible with—

''(i) other databases of the Department of Homeland Security to prevent an alien from obtaining benefits for which the alien is not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) law enforcement databases to determine if the alien has been convicted of criminal offenses.

''SEC. 218A. ADMISSION OF CROSS-BORDER H–2A WORKERS.

''(a) DEFINITION.—In this section, the term 'cross-border H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) who participates in the cross-border worker program established under this section.

''(b) INCORPORATION BY REFERENCE.—

''(1) IN GENERAL.—Except as specifically provided under paragraph (2), the provisions under section 218 shall apply to cross-border H–2A workers.

''(2) EXCEPTIONS.—Subsections (k)(3), (k)(4), and (m) of section 218 shall not apply to cross-border H–2A workers.

''(c) MANDATORY ENTRY AND EXIT.—A cross-border H–2A worker who complies with the provisions of this section—

''(1) may enter the United States each scheduled work day, in accordance with regulations promulgated by the Secretary of Homeland Security; and

''(2) shall exit the United States before the end of each day of such entrance.

''(d) RECRUITMENT.—Each employer that employs a cross-border H–2A worker under this section shall conduct a recruitment for each position occupied by such H–2A worker that complies with the requirements under section 218(b)(4) at least once every 10 months.''.

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. Admission of temporary H–2A workers.

''Sec. 218A. Admission of cross-border H–2A workers.''.

(c) RULEMAKING.—

(1) ISSUANCE OF VISAS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to provide for uniform procedures for the issuance of H–2A visas by United States consulates and consular officials to nonimmigrants described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BORDER CROSSINGS.—The Secretary of State shall promulgate regulations to establish a process for cross-border H–2A workers authorized to work in the United States under section 218A of the Immigration and Nationality Act, as added by subsection (b), to ensure that such workers expeditiously enter and exit the United States during each work day.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 12304. LEGAL ASSISTANCE FROM THE LEGAL SERVICES CORPORATION.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended—

(1) by striking subsection (b) and inserting the following:

''(b)(1) Upon application by a complainant and in such circumstances as the court determines just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

''(2) The Legal Services Corporation may not provide legal assistance for, or on behalf of, any alien, and may not provide financial assistance to any person or entity that provides legal assistance for, or on behalf of, any alien, unless the alien—

''(A) is described in subsection (a); and

''(B) is present in the United States at the time the legal assistance is provided.

''(3)(A) No party may bring a civil action for damages or another complaint on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) (referred to in this subsection as an 'H–2A worker') unless—

''(i) the party makes a request to the Federal Mediation and Conciliation Service or an equivalent State program (as defined by the Secretary of Labor) not later than 90 days before bringing the action to assist the parties in reaching a satisfactory resolution of all issues involving parties to the dispute;

''(ii) the party provides written notification of the alleged violation to the agricultural employer, agricultural association, or farm labor contractor; and

''(iii) the parties to the dispute have attempted, in good faith, mediation or other non-binding dispute resolution of all issues involving all such parties.

''(B) If the mediator finds that an agricultural employer, agricultural association, or farm labor contractor has corrected a violation of this Act or a regulation under this Act not later than 14 days after the date on which such agricultural employer, agricultural association, or farm labor contractor received written notification of such violation, no action may be brought under this section with respect to such violation.

''(C) Any settlement reached through the mediation process described in subparagraph (A) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding.

''(D) If no settlement is reached through the mediation process described in subparagraph (A), any offer of settlement or attempts to remedy alleged grievances shall be admissible as evidence.

''(4) An employer of an H–2A worker shall not be required to waive any requirements of any food safety programs, such as sign in requirements, for any recipient of grants or contracts under section 1007 of the Legal Services Corporation Act (42 U.S.C. 1996f), or any employee of such recipient.

''(5) The employer of an H–2A worker shall post the contact information of the Legal Services Corporation in the dwelling and at the work site of each nonimmigrant employee in a language in which all employees can understand.

''(6) There are authorized to be appropriated to the Federal Mediation and Conciliation Service for each fiscal year such sums as may be necessary to carry out the mediation process described in this subsection.''; and

(2) by adding at the end the following:

''(g)(1) If a defendant prevails in an action under this section in which the plaintiff is represented by an attorney who is employed by the Legal Services Corporation or any entity receiving funds from the Legal Services Corporation, such entity or the Legal Services Corporation shall award to the prevailing defendant fees and other expenses incurred by the defendant in connection with the action.

''(2) In this subsection, the term 'fees and other expenses' has the meaning given the term in section 514(b)(1)(A) of title 5, United States Code.

''(3) The court shall take whatever steps necessary, including the imposition of sanctions, to ensure compliance with this subsection.''.

SEC. 12305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Homeland Security and the Department of State such sums as may be necessary to adjudicate H–2A applications.

NOTICE OF INTENT TO OBJECT TO PROCEEDING

I, Senator RON WYDEN, intend to object to proceeding to S. 3276, a bill to extend certain amendments made by the FISA Amendments Act of 2008, and for other purposes, dated June 11, 2012.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet during the session of the Senate on June 14, 2012, in room SD–628 of the Dirksen Senate Office Building, at 2:15 p.m., to conduct a hearing entitled ''New Tax Burdens on Tribal Self-Determination.''

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Lilia McFarland, a member of my staff, be granted the privilege of the floor for the remainder of the 112th Congress.

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

MEASURES READ THE FIRST TIME—H.R. 436

Mr. MENENDEZ. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 436) to amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices.

Mr. MENENDEZ. Mr. President, I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be