

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To strengthen border security and enforcement.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 744**

To provide for comprehensive immigration reform and for  
other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. HOEVEN (for  
himself, Mr. CORKER, Mr. MCCAIN, Mr. GRAHAM, Mr.  
RUBIO, Mr. FLAKE, Ms. AYOTTE, Mr. HELLER, Mr.  
KIRK, Mr. MANCHIN, Mr. DONNELLY, Mr. PRYOR, Mr.  
BEGICH, and Ms. MURKOWSKI)

Viz:

1       Strike section 3 and all that follows through the end,  
2   and insert the following:

3   **SEC. 3. EFFECTIVE DATE TRIGGERS.**

4       (a) DEFINITIONS.—In this section:

5           (1) COMMISSION.—The term “Commission”  
6       means the Southern Border Security Commission es-  
7       tablished pursuant to section 4.

8           (2) COMPREHENSIVE SOUTHERN BORDER SECU-  
9       RITY STRATEGY.—The term “Comprehensive South-  
10      ern Border Security Strategy” means the strategy

1 established by the Secretary pursuant to section 5(a)  
2 to achieve and maintain an effectiveness rate of 90  
3 percent or higher in all border sectors.

4 (3) EFFECTIVE CONTROL.—The term “effective  
5 control” means the ability to achieve and maintain,  
6 in a Border Patrol sector—

7 (A) persistent surveillance; and

8 (B) an effectiveness rate of 90 percent or  
9 higher.

10 (4) EFFECTIVENESS RATE.—The “effectiveness  
11 rate”, in the case of a border sector, is the percent-  
12 age calculated by dividing the number of apprehen-  
13 sions and turn backs in the sector during a fiscal  
14 year by the total number of illegal entries in the sec-  
15 tor during such fiscal year.

16 (5) SOUTHERN BORDER.—The term “Southern  
17 border” means the international border between the  
18 United States and Mexico.

19 (6) SOUTHERN BORDER FENCING STRATEGY.—  
20 The term “Southern Border Fencing Strategy”  
21 means the strategy established by the Secretary pur-  
22 suant to section 5(b) that identifies where fencing  
23 (including double-layer fencing), infrastructure, and  
24 technology, including at ports of entry, should be de-  
25 ployed along the Southern border.

1 (b) BORDER SECURITY GOAL.—The Department’s  
2 border security goal is to achieve and maintain effective  
3 control in all border sectors along the Southern border.

4 (c) TRIGGERS.—

5 (1) PROCESSING OF APPLICATIONS FOR REG-  
6 ISTERED PROVISIONAL IMMIGRANT STATUS.—Not  
7 earlier than the date upon which the Secretary has  
8 submitted to Congress the Notice of Commencement  
9 of implementation of the Comprehensive Southern  
10 Border Security Strategy and the Southern Border  
11 Fencing Strategy under section 5 of this Act, the  
12 Secretary may commence processing applications for  
13 registered provisional immigrant status pursuant to  
14 section 245B of the Immigration and Nationality  
15 Act, as added by section 2101 of this Act.

16 (2) ADJUSTMENT OF STATUS OF REGISTERED  
17 PROVISIONAL IMMIGRANTS.—

18 (A) IN GENERAL.—Except as provided in  
19 subparagraph (B), the Secretary may not ad-  
20 just the status of aliens who have been granted  
21 registered provisional immigrant status, except  
22 for aliens granted blue card status under sec-  
23 tion 2201 of this Act or described in section  
24 245D(b) of the Immigration and Nationality  
25 Act, until 6 months after the date on which the

1 Secretary, after consultation with the Attorney  
2 General, the Secretary of Defense, the Inspec-  
3 tor General of the Department, and the Comp-  
4 troller General of the United States, submits to  
5 the President and Congress a written certifi-  
6 cation that—

7 (i) the Comprehensive Southern Bor-  
8 der Security Strategy—

9 (I) has been submitted to Con-  
10 gress and includes minimum require-  
11 ments described under paragraph (3),  
12 (4), and (5) of section 5(a);

13 (II) is deployed and operational  
14 (for purposes of this clause the term  
15 “operational” means the technology,  
16 infrastructure, and personnel, deemed  
17 necessary by the Secretary, in con-  
18 sultation with the Attorney General  
19 and the Secretary of Defense, and the  
20 Comptroller General, and includes the  
21 technology described under section  
22 5(a)(3) to achieve effective control of  
23 the Southern border, has been pro-  
24 cured, funded, and is in current use  
25 by the Department to achieve effective

1 control, except in the event of routine  
2 maintenance, de minimis non-deploy-  
3 ment, or natural disaster that would  
4 prevent the use of such assets);

5 (ii) the Southern Border Fencing  
6 Strategy has been submitted to Congress  
7 and implemented, and as a result the Sec-  
8 retary will certify that there is in place  
9 along the Southern Border no fewer than  
10 700 miles of pedestrian fencing which will  
11 include replacement of all currently exist-  
12 ing vehicle fencing on non-tribal lands on  
13 the Southern Border with pedestrian fenc-  
14 ing where possible, and after this has been  
15 accomplished may include a second layer of  
16 pedestrian fencing in those locations along  
17 the Southern Border which the Secretary  
18 deems necessary or appropriate;

19 (iii) the Secretary has implemented  
20 the mandatory employment verification  
21 system required by section 274A of the  
22 Immigration and Nationality Act (8  
23 U.S.C.1324a), as amended by section  
24 3101, for use by all employers to prevent

1           unauthorized workers from obtaining em-  
2           ployment in the United States;

3           (iv) the Secretary is using the elec-  
4           tronic exit system created by section  
5           3303(a)(1) at all international air and sea  
6           ports of entry within the United States  
7           where U.S. Customs and Border Protec-  
8           tion officers are currently deployed; and

9           (v) no fewer than 38,405 trained full-  
10          time active duty U.S. Border Patrol agents  
11          are deployed, stationed, and maintained  
12          along the Southern Border.

13          (B) EXCEPTION.—The Secretary shall per-  
14          mit registered provisional immigrants to apply  
15          for an adjustment to lawful permanent resident  
16          status if—

17               (i)(I) litigation or a force majeure has  
18               prevented 1 or more of the conditions de-  
19               scribed in clauses (i) through (iv) of sub-  
20               paragraph (A) from being implemented; or

21               (II) the implementation of subpara-  
22               graph (A) has been held unconstitutional  
23               by the Supreme Court of the United States  
24               or the Supreme Court has granted certio-  
25               rari to the litigation on the constitu-

1                   tionality of implementation of subpara-  
2                   graph (A); and

3                   (ii) 10 years have elapsed since the  
4                   date of the enactment of this Act.

5           (d) WAIVER OF LEGAL REQUIREMENTS NECESSARY  
6 FOR IMPROVEMENT AT BORDERS.—Notwithstanding any  
7 other provision of law, the Secretary is authorized to waive  
8 all legal requirements that the Secretary determines to be  
9 necessary to ensure expeditious construction of the bar-  
10 riers, roads, or other physical tactical infrastructure need-  
11 ed to fulfill the requirements under this section. Any de-  
12 termination by the Secretary under this section shall be  
13 effective upon publication in the Federal Register of a no-  
14 tice that specifies each law that is being waived and the  
15 Secretary's explanation for the determination to waive  
16 that law. The waiver shall expire on the later of the date  
17 on which the Secretary submits the written certification  
18 that the Southern Border Fencing Strategy is substan-  
19 tially completed as specified in subsection (c)(2)(A)(ii) or  
20 the date that the Secretary submits the written certifi-  
21 cation that the Comprehensive Southern Border Security  
22 Strategy is substantially deployed and substantially oper-  
23 ational as specified in subsection (c)(2)(A)(i).

24           (e) FEDERAL COURT REVIEW.—

1           (1) IN GENERAL.—The district courts of the  
2       United States shall have exclusive jurisdiction to  
3       hear all causes or claims arising from any action un-  
4       dertaken, or any decision made, by the Secretary  
5       under subsection (d). A cause of action or claim may  
6       only be brought alleging a violation of the Constitu-  
7       tion of the United States. The court does not have  
8       jurisdiction to hear any claim not specified in this  
9       paragraph.

10          (2) TIME FOR FILING COMPLAINT.—If a cause  
11       or claim under paragraph (1) is not filed within 60  
12       days after the date of the contested action or deci-  
13       sion by the Secretary, the claim shall be barred.

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

18   **SEC. 4. SOUTHERN BORDER SECURITY COMMISSION.**

19       (a) ESTABLISHMENT.—

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



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

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

8           (B) 60 days after such report is submitted,  
9       the funds made available in section  
10       6(a)(3)(A)(iii) may be expended (except as pro-  
11       vided in subsection (i)).

12       (b) COMPOSITION.—

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

15           (A) 2 members who shall be appointed by  
16       the President;

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

20           (i) 1 shall be appointed upon the rec-  
21       ommendation of the leader in the Senate of  
22       the political party that is not the political  
23       party of the President; and

1 (ii) 1 shall be appointed upon the rec-  
2 ommendation of the leader in the Senate of  
3 the other political party;

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

7 (i) 1 shall be appointed upon the rec-  
8 ommendation of the leader in the House of  
9 Representatives of the political party that  
10 is not the political party of the President;  
11 and

12 (ii) 1 shall be appointed upon the rec-  
13 ommendation of the leader in the House of  
14 Representatives of the other political party;  
15 and

16 (D) 5 members, consisting of 1 member  
17 from the Southwestern State of Nevada and 1  
18 member from each of the States along the  
19 Southern border, who shall be—

20 (i) the Governor of such State; or

21 (ii) appointed by the Governor of each  
22 such State.

23 (2) QUALIFICATIONS FOR APPOINTMENT.—The  
24 members of the Commission shall be distinguished  
25 individuals noted for their knowledge and experience

1 in the field of border security at the Federal, State,  
2 or local level and may also include reputable individ-  
3 uals who are landowners in the Southern border  
4 area with first-hand experience with border issues.

5 (3) TIME OF APPOINTMENT.—The appoint-  
6 ments required by paragraph (1) shall be made not  
7 later than 1 year after the date of the enactment of  
8 this Act.

9 (4) CHAIR.—At the first meeting of the Com-  
10 mission, a majority of the members of the Commis-  
11 sion present and voting shall elect the Chair of the  
12 Commission.

13 (5) VACANCIES.—Any vacancy of the Commis-  
14 sion shall not affect its powers, but shall be filled in  
15 the manner in which the original appointment was  
16 made.

17 (6) RULES.—The Commission shall establish  
18 the rules and procedures of the Commission which  
19 shall require the approval of at least 6 members of  
20 the Commission.

21 (c) DUTIES.—

22 (1) IN GENERAL.—The Commission's primary  
23 responsibility shall be to make recommendations to  
24 the President, the Secretary, and Congress on poli-  
25 cies to achieve and maintain the border security goal

1 specified in section 3(b) by achieving and maintain-  
2 ing—

3 (A) the capability to engage in, and engag-  
4 ing in, persistent surveillance in border sectors  
5 along the Southern border; and

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

9 (2) PUBLIC HEARINGS.—

10 (A) IN GENERAL.—The Commission shall  
11 convene at least 1 public hearing each year on  
12 border security.

13 (B) REPORT.—The Commission shall pro-  
14 vide a summary of each hearing convened pur-  
15 suant to subparagraph (A) to the entities set  
16 out in subparagraphs (A) through (G) of sec-  
17 tion 5(a)(1).

18 (d) REPORT.—If required pursuant to subsection  
19 (a)(2)(B) and in no case earlier than the date that is 5  
20 years after the date of the enactment of this Act, the Com-  
21 mission shall submit to the President, the Secretary, and  
22 Congress a report setting forth specific recommendations  
23 for policies for achieving and maintaining the border secu-  
24 rity goals specified in subsection (c). The report shall in-  
25 clude, at a minimum, recommendations for the personnel,

1 infrastructure, technology, and other resources required to  
2 achieve and maintain an effectiveness rate of 90 percent  
3 or higher in all border sectors.

4 (e) TRAVEL EXPENSES.—Members of the Commis-  
5 sion shall be allowed travel expenses, including per diem  
6 in lieu of subsistence rates authorized for employees of  
7 agencies under subchapter I of chapter 57 of title 5,  
8 United States Code, while away from their homes or reg-  
9 ular places of business in the performance of services for  
10 the Commission.

11 (f) ADMINISTRATIVE SUPPORT.—The Secretary shall  
12 provide the Commission such staff and administrative  
13 services as may be necessary and appropriate for the Com-  
14 mission to perform its functions. Any employee of the ex-  
15 ecutive branch of Government may be detailed to the Com-  
16 mission without reimbursement to the agency of that em-  
17 ployee and such detail shall be without interruption or loss  
18 of civil service or status or privilege.

19 (g) COMPTROLLER GENERAL REVIEW.—The Comp-  
20 troller General of the United States shall review the rec-  
21 ommendations in the report submitted under subsection  
22 (d) in order to determine—

23 (1) whether any of the recommendations are  
24 likely to achieve effective control in all border sec-  
25 tors;

1           (2) which recommendations are most likely to  
2           achieve effective control; and

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

5           (h) TERMINATION.—The Commission shall terminate  
6   10 years after the date of the enactment of this Act.

7           (i) FUNDING.—The amounts made available under  
8   section 6(a)(3)(A)(iii) to carry out programs, projects, and  
9   activities recommended by the Commission may not be ex-  
10   pended prior to the date that is 60 days after a report  
11   required by subsection (d) is submitted and, in no case,  
12   prior to 60 days after the date that is 5 years after the  
13   date of the enactment of this Act, except that funds made  
14   available under section 6(a)(3)(A)(iii) may be used for  
15   minimal administrative expenses directly associated with  
16   convening the public hearings required by subsection  
17   (c)(2)(A) and preparing and providing summaries of such  
18   hearings required by subsection (c)(2)(B).

19   **SEC. 5. COMPREHENSIVE SOUTHERN BORDER SECURITY**  
20                   **STRATEGY AND SOUTHERN BORDER FENC-**  
21                   **ING STRATEGY.**

22           (a) COMPREHENSIVE SOUTHERN BORDER SECURITY  
23   STRATEGY.—

24           (1) IN GENERAL.—Not later than 180 days  
25           after the date of the enactment of this Act, the Sec-

1       retary, in consultation with the Attorney General  
2       and the Secretary of Defense, shall submit a strat-  
3       egy, to be known as the “Comprehensive Southern  
4       Border Security Strategy”, for achieving and main-  
5       taining effective control between and at the ports of  
6       entry in all border sectors along the Southern bor-  
7       der, to—

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

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

12              (C) the Committee on Appropriations of  
13              the Senate;

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

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

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

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

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

24              (I) the Comptroller General of the United  
25              States.

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

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

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

8                           (i) surveillance and detection capabili-  
9       ties developed or used by the various De-  
10      partments and Agencies for the Federal  
11      government for the purposes of enhancing  
12      the functioning and operational capability  
13      to conduct continuous and integrated  
14      manned or unmanned, monitoring, sensing,  
15      or surveillance of 100 percent of Southern  
16      border mileage or the immediate vicinity of  
17      the Southern border;

18                           (ii) the requirement for stationing suf-  
19      ficient Border Patrol agents and Customs  
20      and Border Protection officers between  
21      and at ports of entry along the Southern  
22      border; and

23                           (iii) the necessary and qualified staff  
24      and equipment to fully utilize available un-



1                   armed, unmanned aerial systems and un-  
2                   armed, fixed wing aircraft.

3                   (3) MINIMUM REQUIREMENTS.—The Com-  
4                   prehensive Southern Border Security Strategy shall  
5                   require, at a minimum, the deployment of the fol-  
6                   lowing technologies for each Border Patrol sector  
7                   along the Southern Border:

8                   (A) ARIZONA (YUMA AND TUCSON SEC-  
9                   TORS).—For Arizona (Yuma and Tucson Sec-  
10                  tors) between ports of entry the following:

11                   (i) 50 integrated fixed towers.

12                   (ii) 73 fixed camera systems (with re-  
13                   location capability), which include Remote  
14                   Video Surveillance Systems.

15                   (iii) 28 mobile surveillance systems,  
16                   which include mobile video surveillance sys-  
17                   tems, agent-portable surveillance systems,  
18                   and mobile surveillance capability systems.

19                   (iv) 685 unattended ground sensors,  
20                   including seismic, imaging, and infrared.

21                   (v) 22 handheld equipment devices,  
22                   including handheld thermal imaging sys-  
23                   tems and night vision goggles.

24                   (B) SAN DIEGO, CALIFORNIA.—For San  
25                   Diego, California the following:

1 (i) BETWEEN PORTS OF ENTRY.—Be-  
2 tween ports of entry the following:

3 (I) 3 integrated fixed towers.

4 (II) 41 fixed camera systems  
5 (with relocation capability), which in-  
6 clude Remote Video Surveillance Sys-  
7 tems.

8 (III) 14 mobile surveillance sys-  
9 tems, which include mobile video sur-  
10 veillance systems, agent-portable sur-  
11 veillance systems, and mobile surveil-  
12 lance capability systems.

13 (IV) 393 unattended ground sen-  
14 sors, including seismic, imaging, and  
15 infrared.

16 (V) 83 handheld equipment de-  
17 vices, including handheld thermal im-  
18 aging systems and night vision gog-  
19 gles.

20 (ii) AT POINTS OF ENTRY, CHECK-  
21 POINTS.—At points of entry, checkpoints  
22 the following:

23 (I) 2 non-intrusive inspection sys-  
24 tems, including fixed and mobile.

25 (II) 1 radiation portal monitor.

1 (III) 1 littoral detection and clas-  
2 sification network

3 (C) EL CENTRO, CALIFORNIA.—For El  
4 Centro, California the following:

5 (i) BETWEEN PORTS OF ENTRY.—Be-  
6 tween ports of entry the following:

7 (I) 66 fixed camera systems  
8 (with relocation capability), which in-  
9 clude Remote Video Surveillance Sys-  
10 tems.

11 (II) 18 mobile surveillance sys-  
12 tems, which include mobile video sur-  
13 veillance systems, agent-portable sur-  
14 veillance systems, and mobile surveil-  
15 lance capability systems.

16 (III) 85 unattended ground sen-  
17 sors, including seismic, imaging, and  
18 infrared.

19 (IV) 57 handheld equipment de-  
20 vices, including handheld thermal im-  
21 aging systems and night vision gog-  
22 gles.

23 (V) 2 sensor repeaters.

24 (VI) 2 communications repeaters.

1 (ii) AT POINTS OF ENTRY, CHECK-  
2 POINTS.—At points of entry, checkpoints  
3 the following:

4 (I) 5 fiber-optic tank inspection  
5 scopes.

6 (II) 1 license plate reader.

7 (III) 1 backscatter.

8 (IV) 2 portable contraband detec-  
9 tors.

10 (V) 2 radiation isotope identifica-  
11 tion devices.

12 (VI) 8 radiation isotope identi-  
13 fication devices updates.

14 (VII) 3 personal radiation detec-  
15 tors.

16 (VIII) 16 mobile automated tar-  
17 geting systems.

18 (D) EL PASO, TEXAS.—For El Paso,  
19 Texas the following:

20 (i) BETWEEN PORTS OF ENTRY.—Be-  
21 tween ports of entry the following:

22 (I) 27 integrated fixed towers.

23 (II) 71 fixed camera systems  
24 (with relocation capability), which in-

## 21

1 include Remote Video Surveillance Sys-  
2 tems.

3 (III) 31 mobile surveillance sys-  
4 tems, which include mobile video sur-  
5 veillance systems, agent-portable sur-  
6 veillance systems, and mobile surveil-  
7 lance capability systems.

8 (IV) 170 unattended ground sen-  
9 sors, including seismic, imaging, and  
10 infrared.

11 (V) 24 handheld equipment de-  
12 vices, including handheld thermal im-  
13 aging systems and night vision gog-  
14 gles.

15 (VI) 1 communications repeater.

16 (VII) 1 sensor repeater.

17 (VIII) 2 camera refresh.

18 (ii) AT POINTS OF ENTRY, CHECK-  
19 POINTS.—At points of entry, checkpoints  
20 the following:

21 (I) 4 non-intrusive inspection sys-  
22 tems, including fixed and mobile.

23 (II) 23 fiber-optic tank inspection  
24 scopes.

## 22

1 (III) 1 portable contraband de-  
2 tectors.

3 (IV) 19 radiation isotope identi-  
4 fication devices updates.

5 (V) 1 real time radioscopy  
6 version 4.

7 (VI) 8 personal radiation detec-  
8 tors.

9 (E) BIG BEND, TEXAS.—For Big Bend,  
10 Texas the following:

11 (i) BETWEEN PORTS OF ENTRY.—Be-  
12 tween ports of entry the following:

13 (I) 7 fixed camera systems (with  
14 relocation capability), which include  
15 remote video surveillance systems.

16 (II) 29 mobile surveillance sys-  
17 tems, which include mobile video sur-  
18 veillance systems, agent-portable sur-  
19 veillance systems, and mobile surveil-  
20 lance capability systems.

21 (III) 1105 unattended ground  
22 sensors, including seismic, imaging,  
23 and infrared.

24 (IV) 131 handheld equipment de-  
25 vices, including handheld thermal im-

1 aging systems and night vision goggles.  
2

3 (V) 1 mid-range camera refresh.

4 (VI) 1 improved surveillance capabilities for existing aerostat.  
5

6 (VII) 27 sensor repeaters.

7 (VIII) 27 communications repeaters.  
8

9 (ii) AT POINTS OF ENTRY, CHECKPOINTS.—At points of entry, checkpoints  
10 the following:  
11

12 (I) 7 fiber-optic tank inspection scopes.  
13

14 (II) 3 license plate readers, including mobile, tactical, and fixed.  
15

16 (III) 12 portable contraband detectors.  
17

18 (IV) 7 radiation isotope identification devices.  
19

20 (V) 12 radiation isotope identification devices updates.  
21

22 (VI) 254 personal radiation detectors.  
23

24 (VII) 19 mobile automated targeting systems.  
25

## 24

1 (F) DEL RIO, TEXAS.—For Del Rio, Texas  
2 the following:

3 (i) BETWEEN PORTS OF ENTRY.—Be-  
4 tween ports of entry the following:

5 (I) 3 integrated fixed towers.

6 (II) 74 fixed camera systems  
7 (with relocation capability), which in-  
8 clude remote video surveillance sys-  
9 tems.

10 (III) 47 mobile surveillance sys-  
11 tems, which include mobile video sur-  
12 veillance systems, agent-portable sur-  
13 veillance systems, and mobile surveil-  
14 lance capability systems.

15 (IV) 868 unattended ground sen-  
16 sors, including seismic, imaging, and  
17 infrared.

18 (V) 174 handheld equipment de-  
19 vices, including handheld thermal im-  
20 aging systems and night vision gog-  
21 gles.

22 (VI) 26 mobile/handheld inspec-  
23 tion scopes and sensors for check-  
24 points.



## 25

1 (VII) 1 improved surveillance ca-  
2 pabilities for existing aerostat.

3 (VIII) 21 sensor repeaters.

4 (IX) 21 communications repeat-  
5 ers.

6 (ii) AT POINTS OF ENTRY, CHECK-  
7 POINTS.—At points of entry, checkpoints  
8 the following:

9 (I) 4 license plate readers, in-  
10 cluding mobile, tactical, and fixed.

11 (II) 13 radiation isotope identi-  
12 fication devices updates.

13 (III) 3 mobile automated tar-  
14 geting systems.

15 (IV) 6 land automated targeting  
16 systems.

17 (G) LAREDO, TEXAS.—For Laredo, Texas  
18 the following:

19 (i) BETWEEN THE PORTS OF  
20 ENTRY.—Between ports of entry the fol-  
21 lowing:

22 (I) 2 integrated fixed towers.

23 (II) 69 fixed camera systems  
24 (with relocation capability), which in-

1                   clude remote video surveillance sys-  
2                   tems.

3                   (III) 38 mobile surveillance sys-  
4                   tems, which include mobile video sur-  
5                   veillance systems, agent-portable sur-  
6                   veillance systems, and mobile surveil-  
7                   lance capability systems.

8                   (IV) 573 unattended ground sen-  
9                   sors, including seismic, imaging, and  
10                  infrared.

11                  (V) 124 handheld equipment de-  
12                  vices, including handheld thermal im-  
13                  aging systems and night vision gog-  
14                  gles.

15                  (VI) 38 sensor repeaters.

16                  (VII) 38 communications repeat-  
17                  ers.

18                  (ii) AT POINTS OF ENTRY, CHECK-  
19                  POINTS.—At points of entry, checkpoints  
20                  the following:

21                   (I) 1 non-intrusive inspection sys-  
22                   tem.

23                   (II) 7 fiber-optic tank inspection  
24                   scopes.

## 27

1 (III) 19 license plate readers, in-  
2 cluding mobile, tactical, and fixed.

3 (IV) 2 backscatter.

4 (V) 14 portable contraband de-  
5 tectors.

6 (VI) 2 radiation isotope identi-  
7 fication devices.

8 (VII) 18 radiation isotope identi-  
9 fication devices updates.

10 (VIII) 16 personal radiation de-  
11 tectors.

12 (IX) 24 mobile automated tar-  
13 geting systems.

14 (X) 3 land automated targeting  
15 systems.

16 (H) RIO GRANDE VALLEY.—For Rio  
17 Grande Valley the following:

18 (i) BETWEEN PORTS OF ENTRY.—Be-  
19 tween ports of entry the following:

20 (I) 1 integrated fixed towers.

21 (II) 87 fixed camera systems  
22 (with relocation capability), which in-  
23 clude remote video surveillance sys-  
24 tems.

1 (III) 27 mobile surveillance sys-  
2 tems, which include mobile video sur-  
3 veillance systems, agent-portable sur-  
4 veillance systems, and mobile surveil-  
5 lance capability systems.

6 (IV) 716 unattended ground sen-  
7 sors, including seismic, imaging, and  
8 infrared.

9 (V) 205 handheld equipment de-  
10 vices, including handheld thermal im-  
11 aging systems and night vision gog-  
12 gles.

13 (VI) 4 sensor repeaters.

14 (VII) 1 communications repeater.

15 (VIII) 2 camera refresh.

16 (ii) AT POINTS OF ENTRY, CHECK-  
17 POINTS.—At points of entry, checkpoints  
18 the following:

19 (I) 1 mobile non-intrusive inspec-  
20 tion system.

21 (II) 11 fiberoptic tank inspection  
22 scopes.

23 (III) 1 license plate reader.

24 (IV) 2 backscatter.

25 (V) 2 card reader system.

1 (VI) 8 portable contraband detec-  
2 tors.

3 (VII) 5 radiation isotope identi-  
4 fication devices.

5 (VIII) 18 radiation isotope iden-  
6 tification devices updates.

7 (IX) 135 personal radiation de-  
8 tectors.

9 (iii) AIR AND MARINE ACROSS THE  
10 SOUTHWEST BORDER.—For air and ma-  
11 rine across the Southwest border the fol-  
12 lowing:

13 (I) 4 unmanned aircraft systems.

14 (II) 6 VADER radar systems.

15 (III) 17 UH-1N helicopters.

16 (IV) 8 C-206H aircraft upgrades.

17 (V) 8 AS-350 light enforcement  
18 helicopters.

19 (VI) 10 Blackhawk helicopter 10  
20 A-L conversions, 5 new Blackhawk M  
21 Model.

22 (VII) 30 marine vessels.

23 (4) REDEPLOYMENT OF RESOURCES TO  
24 ACHIEVE EFFECTIVE CONTROL.—The Secretary may  
25 reallocate the personnel, infrastructure, and tech-

1       nologies required in the Southern Border Security  
2       Strategy to achieve effective control of the Southern  
3       border.

4           (5) ALTERNATE TECHNOLOGY.—If the Sec-  
5       retary determines that an alternate or new tech-  
6       nology is at least as effective as the technologies de-  
7       scribed in paragraph (3) and provides a commensu-  
8       rate level of security, the Secretary may deploy that  
9       technology in its place and without regard to the  
10      minimums in this section. The Secretary shall notify  
11      Congress within 60 days of any such determination.

12          (6) ANNUAL REPORT.—Beginning 1 year after  
13      the enactment of this Act, and annually thereafter,  
14      the Secretary shall provide to Congress a written re-  
15      port to Congress on the sector-by-sector deployment  
16      of infrastructure and technologies.

17          (7) ADDITIONAL ELEMENTS REGARDING EXE-  
18      CUTION.—The Comprehensive Southern Border Se-  
19      curity Strategy shall describe—

20           (A) how the resources referred to in para-  
21           graph (2)(C) will be properly aligned with the  
22           priorities referred to in paragraph (2)(A) to en-  
23           sure that the strategy will be successfully exe-  
24           cuted;

1 (B) the interim goals that must be accom-  
2 plished to successfully implement the strategy;  
3 and

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

8 (8) IMPLEMENTATION.—

9 (A) IN GENERAL.—The Secretary shall  
10 commence the implementation of the Com-  
11 prehensive Southern Border Security Strategy  
12 immediately after submitting the strategy under  
13 paragraph (1).

14 (B) NOTICE OF COMMENCEMENT.—Upon  
15 commencing the implementation of the strategy,  
16 the Secretary shall submit a notice of com-  
17 mencement of such implementation to—

18 (i) Congress; and

19 (ii) the Comptroller General of the  
20 United States.

21 (9) SEMIANNUAL REPORTS.—

22 (A) IN GENERAL.—Not later than 180  
23 days after the Comprehensive Southern Border  
24 Security Strategy is submitted under paragraph  
25 (1), and every 180 days thereafter, the Sec-

1           retary shall submit a report on the status of the  
2           Department's implementation of the strategy  
3           to—

4                   (i) the Committee on Homeland Secu-  
5                   rity and Governmental Affairs of the Sen-  
6                   ate;

7                   (ii) the Committee on Homeland Se-  
8                   curity of the House of Representatives;

9                   (iii) the Committee on Appropriations  
10                  of the Senate;

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

13                  (v) the Committee on the Judiciary of  
14                  the Senate;

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

17                  (vii) the Comptroller General of the  
18                  United States.

19           (B) ELEMENTS.—Each report submitted  
20           under subparagraph (A) shall include—

21                   (i) a detailed description of the steps  
22                   the Department has taken, or plans to  
23                   take, to execute the strategy submitted  
24                   under paragraph (1), including the  
25                   progress made toward achieving the in-



terim goals and milestone schedule established pursuant to subparagraphs (B) and (C) of paragraph (3);

(ii) a detailed description of—

(I) any impediments identified in the Department's efforts to execute the strategy;

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

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

(iii) for each Border Patrol sector along the Southern border—

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

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

(III) the recidivism rate for all unique subjects that received a crimi-

1                   nal consequence through the Con-  
2                   sequence Delivery System process.

3                   (C) ANNUAL REVIEW.—The Comptroller  
4                   General of the United States shall conduct an  
5                   annual review of the information contained in  
6                   the semiannual reports submitted by the Sec-  
7                   retary under this paragraph and submit an as-  
8                   sessment of the status and progress of the  
9                   Southern Border Security Strategy to the com-  
10                  mittees set forth in subparagraph (A).

11               (b) SOUTHERN BORDER FENCING STRATEGY.—

12               (1) ESTABLISHMENT.—Not later than 180 days  
13               after the date of the enactment of this Act, the Sec-  
14               retary shall establish a strategy, to be known as the  
15               “Southern Border Fencing Strategy”, to identify  
16               where 700 miles of fencing (including double-layer  
17               fencing), infrastructure, and technology, including at  
18               ports of entry, should be deployed along the South-  
19               ern border.

20               (2) SUBMISSION.—The Secretary shall submit  
21               the Southern Border Fencing Strategy to Congress  
22               and the Comptroller General of the United States  
23               for review.

24               (3) NOTICE OF COMMENCEMENT.—Upon com-  
25               mencing the implementation of the Southern Border

1 Fencing Strategy, the Secretary shall submit a no-  
2 tice of commencement of the implementation of the  
3 Strategy to Congress and the Comptroller General of  
4 the United States.

5 (4) CONSULTATION.—

6 (A) IN GENERAL.—In implementing the  
7 Southern Border Fencing Strategy required by  
8 this subsection, the Secretary shall consult with  
9 the Secretary of the Interior, the Secretary of  
10 Agriculture, States, local governments, Indian  
11 tribes, and property owners in the United  
12 States to minimize the impact on the environ-  
13 ment, culture, commerce, and quality of life for  
14 the communities and residents located near the  
15 sites at which such fencing is to be constructed.

16 (B) SAVINGS PROVISION.—Nothing in this  
17 paragraph may be construed to—

18 (i) create or negate any right of action  
19 for a State or local government or other  
20 person or entity affected by this sub-  
21 section; or

22 (ii) affect the eminent domain laws of  
23 the United States or of any State.

24 (5) LIMITATION ON REQUIREMENTS.—Notwith-  
25 standing paragraph (1), nothing in this subsection

1       shall require the Secretary to install fencing, or in-  
2       frastructure that directly results from the installa-  
3       tion of such fencing, in a particular location along  
4       the Southern border, if the Secretary determines  
5       that the use or placement of such resources is not  
6       the most appropriate means to achieve and maintain  
7       effective control over the Southern border at such lo-  
8       cation.

9   **SEC. 6. COMPREHENSIVE IMMIGRATION REFORM FUNDS.**

10       (a) COMPREHENSIVE IMMIGRATION REFORM TRUST  
11   FUND.—

12           (1) ESTABLISHMENT.—There is established in  
13       the Treasury a separate account, to be known as the  
14       Comprehensive Immigration Reform Trust Fund  
15       (referred to in this section as the “Trust Fund”),  
16       consisting of—

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

20           (B) proceeds from the fees described in  
21       paragraph (2)(B).

22       (2) DEPOSITS.—

23           (A) INITIAL FUNDING.—On the later of  
24       the date of the enactment of this Act or Octo-  
25       ber 1, 2013, \$46,300,000,000 shall be trans-

1           ferred from the general fund of the Treasury to  
2           the Trust Fund.

3           (B) ONGOING FUNDING.—Notwithstanding  
4           section 3302 of title 31, United States Code, in  
5           addition to the funding described in subpara-  
6           graph (A), and subject to paragraphs (3)(B)  
7           and (4), the following amounts shall be depos-  
8           ited in the Trust Fund:

9                   (i) ELECTRONIC TRAVEL AUTHORIZA-  
10                  TION SYSTEM FEES.—Fees collected under  
11                  section 217(h)(3)(B)(i)(II) of the Immigra-  
12                  tion and Nationality Act, as added by sec-  
13                  tion 1102(c).

14                  (ii) REGISTERED PROVISIONAL IMMI-  
15                  GRANT PENALTIES.—Penalties collected  
16                  under section 245B(c)(10)(C) of the Immi-  
17                  gration and Nationality Act, as added by  
18                  section 2101.

19                  (iii) BLUE CARD PENALTY.—Penalties  
20                  collected under section 2211(b)(9)(C).

21                  (iv) FINE FOR ADJUSTMENT FROM  
22                  BLUE CARD STATUS.—Fines collected  
23                  under section 245F(a)(5) of the Immigra-  
24                  tion and Nationality Act, as added by sec-  
25                  tion 2212(a).

1 (v) PENALTIES FOR FALSE STATE-  
2 MENTS IN APPLICATIONS.—Fines collected  
3 under section 245F(f) of the Immigration  
4 and Nationality Act, as added by section  
5 2212(a).

6 (vi) MERIT SYSTEM GREEN CARD  
7 FEES.—Fees collected under section  
8 203(c)(6) of the Immigration and Nation-  
9 ality Act, as amended by section  
10 2301(a)(2).

11 (vii) H-1B AND L VISA FEES.—Fees  
12 collected under section 281(d) of the Immi-  
13 gration and Nationality Act, as added by  
14 section 4105.

15 (viii) H-1B OUTPLACEMENT FEE.—  
16 Fees collected under section  
17 212(n)(1)(F)(ii) of the Immigration and  
18 Nationality Act, as amended by section  
19 4211(d).

20 (ix) H-1B NONIMMIGRANT DEPEND-  
21 ENT EMPLOYER FEES.—Fees collected  
22 under section 4233(a)(2).

23 (x) L NONIMMIGRANT DEPENDENT  
24 EMPLOYER FEES.—Fees collected under  
25 section 4305(a)(2).

1 (xi) J-1 VISA MITIGATION FEES.—

2 Fees collected under section 281(e) of the  
3 Immigration and Nationality Act, as added  
4 by section 4407.

5 (xii) F-1 VISA FEES.—Fees collected  
6 under section 281(f) of the Immigration  
7 and Nationality Act, as added by section  
8 4409.

9 (xiii) RETIREE VISA FEES.—Fees col-  
10 lected under section 214(w)(1)(B) of the  
11 Immigration and Nationality Act, as added  
12 by section 4504(b).

13 (xiv) VISITOR VISA FEES.—Fees col-  
14 lected under section 281(g) of the Immi-  
15 gration and Nationality Act, as added by  
16 section 4509.

17 (xv) H-2B VISA FEES.—Fees col-  
18 lected under section 214(x)(5)(A) of the  
19 Immigration and Nationality Act, as added  
20 by section 4602(a).

21 (xvi) NONIMMIGRANTS PERFORMING  
22 MAINTENANCE ON COMMON CARRIERS.—  
23 Fees collected under section 214(z) of the  
24 Immigration and Nationality Act, as added  
25 by section 4604.

1 (xvii) X-1 VISA FEES.—Fees collected  
2 under section 214(s)(6) of the Immigration  
3 and Nationality Act, as added by section  
4 4801.

5 (xviii) PENALTY FOR ADJUSTMENT  
6 FROM REGISTERED PROVISIONAL IMMI-  
7 GRANT STATUS.—Penalties collected under  
8 section 245C(c)(5)(B) of the Immigration  
9 and Nationality Act, as added by section  
10 2102.

11 (C) AUTHORITY TO ADJUST FEES.—As  
12 necessary to carry out the purposes of this Act,  
13 the Secretary may adjust the amounts of the  
14 fees and penalties set out under subparagraph  
15 (B), except for the fines and penalties referred  
16 to in clauses (ii), (iii), (iv), or (xviii) of such  
17 subparagraph; provided further that the Sec-  
18 retary shall adjust the amounts of the fees and  
19 penalties set out under subparagraph (B), ex-  
20 cept for the fines and penalties referred to in  
21 clauses (ii), (iii), (iv), or (xviii) of such subpara-  
22 graph to result in no less than \$500,000,000  
23 being available for fiscal year 2014 and  
24 \$1,000,000,000 for fiscal years 2015 through  
25 2023 for appropriations for activities authorized



1           under this Act. If the Secretary determines that  
2           adjusting the fees and penalties set out under  
3           subparagraph (B) will be insufficient or imprac-  
4           tical to cover the costs of the mandatory en-  
5           forcement expenditures in this Act, the Sec-  
6           retary may charge an additional surcharge on  
7           every immigrant and nonimmigrant petition  
8           filed with the Secretary in an amount designed  
9           to be the minimum proportional surcharge nec-  
10          essary to recover the annual mandatory enforce-  
11          ment expenditures in this legislation.

12          (3) USE OF FUNDS.—

13                (A) INITIAL FUNDING.—Of the amounts  
14                transferred to the Trust Fund pursuant to  
15                paragraph (2)(A)—

16                   (i) \$30,000,000,000 shall remain  
17                   available for the 10-year period beginning  
18                   on the date specified in paragraph (2)(A)  
19                   for use by the Secretary in hiring and de-  
20                   ploying at least 19,200 additional trained  
21                   full-time active duty U.S. Border Patrol  
22                   agents along the Southern Border;

23                   (ii) \$4,500,000,000 shall remain  
24                   available for the 5-year period beginning  
25                   on the date specified in paragraph (2)(A)

1                   for use by the Secretary to carry out the  
2                   Comprehensive Southern Border Security  
3                   Strategy;

4                   (iii) \$2,000,000,000 shall remain  
5                   available for the 10-year period beginning  
6                   on the date specified in paragraph (2)(A)  
7                   for use by the Secretary to carry out pro-  
8                   grams, projects, and activities rec-  
9                   ommended by the Commission pursuant to  
10                  section 4(d) to achieve and maintain the  
11                  border security goal specified in section  
12                  3(b), and for the administrative expenses  
13                  directly associated with convening the pub-  
14                  lic hearings required by section 3(c)(2)(A)  
15                  and preparing and providing summaries of  
16                  such hearings required by section  
17                  3(c)(2)(B);

18                  (iv) \$8,000,000,000 shall be made  
19                  available to the Secretary, during the 5-  
20                  year period beginning on the date of the  
21                  enactment of this Act, to procure and de-  
22                  ploy fencing, infrastructure, and tech-  
23                  nology in accordance with the Southern  
24                  Border Fencing Strategy established pur-  
25                  suant to section 5(b), not less than

1           \$7,500,000,000 of which shall be used to  
2           deploy, repair, or replace fencing;

3           (v) \$750,000,000 shall remain avail-  
4           able for the 6-year period beginning on the  
5           date specified in paragraph (2)(A) for use  
6           by the Secretary to expand and implement  
7           the mandatory employment verification  
8           system, which shall be used as required by  
9           section 274A of the Immigration and Na-  
10          tionality Act (8 U.S.C. 1324a), as amend-  
11          ed by section 3101;

12          (vi) \$900,000,000 shall remain avail-  
13          able for the 8-year period beginning on the  
14          date specified in paragraph (2)(A) for use  
15          by the Secretary of State to pay for one-  
16          time and startup costs necessary to imple-  
17          ment this Act; and

18          (vii) \$150,000,000 shall remain avail-  
19          able for the 2-year period beginning on the  
20          date specified in paragraph (2)(A) for use  
21          by the Secretary for transfer to the Sec-  
22          retary of Labor, the Secretary of Agri-  
23          culture, or the Attorney General, for initial  
24          costs of implementing this Act.

1 (B) REPAYMENT OF TRUST FUND EX-  
2 PENSES.—The first \$8,300,000,000 collected  
3 pursuant to' the fees, penalties, and fines re-  
4 ferred to in clauses (ii), (iii), (iv), (vi), (xiii),  
5 (xvii), and (xviii) of paragraph (2)(B) shall be  
6 collected, deposited in the general fund of the  
7 Treasury, and used for Federal budget deficit  
8 reduction. Collections in excess of  
9 \$8,300,000,000 shall be deposited into the  
10 Trust Fund, as specified in paragraph (2)(B).

11 (C) PROGRAM IMPLEMENTATION.—  
12 Amounts deposited into the Trust Fund pursu-  
13 ant to paragraph (2)(B) shall be available dur-  
14 ing each of fiscal years 2014 through 2018 as  
15 follows:

16 (i) \$50,000,000 to carry out the ac-  
17 tivities referenced in section 1104(a)(1).

18 (ii) \$50,000,000 to carry out the ac-  
19 tivities referenced in section 1104(b).

20 (D) ONGOING FUNDING.—Subject to the  
21 availability of appropriations, amounts depos-  
22 ited in the Trust Fund pursuant to paragraph  
23 (2)(B) are authorized to be appropriated as fol-  
24 lows:

1 (i) Such sums as may be necessary to  
2 carry out the authorizations included in  
3 this Act, including the costs, including pay  
4 and benefits, associated with the additional  
5 personnel required by section 1102.

6 (ii) Such sums as may be necessary to  
7 carry out the operations and maintenance  
8 of border security and immigration en-  
9 forcement investments referenced in sub-  
10 paragraph (A).

11 (E) EXPENDITURE PLAN.—The Secretary,  
12 in consultation with the Attorney General and  
13 the Secretary of Defense, shall submit to the  
14 Committee on Appropriations of the Senate, the  
15 Committee on the Judiciary of the Senate, the  
16 Committee on Appropriations of the House of  
17 Representatives, and the Committee on the Ju-  
18 diciary of the House of Representatives, in con-  
19 junction with the Comprehensive Southern Bor-  
20 der Strategy and the Southern Border Fencing  
21 Strategy, a plan for expenditure that de-  
22 scribes—

23 (i) the types and planned deployment  
24 of fixed, mobile, video, and agent and offi-  
25 cer portable surveillance and detection

1 equipment, including those recommended  
2 or provided by the Department of Defense;

3 (ii) the number of Border Patrol  
4 agents and Customs and Border Protection  
5 officers to be hired, including a detailed  
6 description of which Border Patrol sectors  
7 and which land border ports of entry they  
8 will be stationed;

9 (iii) the numbers and type of un-  
10 armed, unmanned aerial systems and un-  
11 armed, fixed-wing and rotary aircraft, in-  
12 cluding pilots, air interdiction agents, and  
13 support staff to fly or otherwise operate  
14 and maintain the equipment;

15 (iv) the numbers, types, and planned  
16 deployment of marine and riverine vessels,  
17 if any, including marine interdiction agents  
18 and support staff to operate and maintain  
19 the vessels;

20 (v) the locations, amount, and  
21 planned deployment of fencing, including  
22 double layer fencing, tactical and other in-  
23 frastructure, and technology, including but  
24 not limited to fixed towers, sensors, cam-  
25 eras, and other detection technology;

1 (vi) the numbers, types, and planned  
2 deployment of ground-based mobile surveil-  
3 lance systems;

4 (vii) the numbers, types, and planned  
5 deployment of tactical and other interoper-  
6 able law enforcement communications sys-  
7 tems and equipment;

8 (viii) required construction, including  
9 repairs, expansion, and maintenance, and  
10 location of additional checkpoints, Border  
11 Patrol stations, and forward operating  
12 bases;

13 (ix) the number of additional attor-  
14 neys and support staff for the Office of the  
15 United States Attorney for Tucson;

16 (x) the number of additional support  
17 staff and interpreters in the Office of the  
18 Clerk of the Court for Tucson;

19 (xi) the number of additional per-  
20 sonnel, including Marshals and Deputy  
21 Marshals for the United States Marshals  
22 Office for Tucson;

23 (xii) the number of additional mag-  
24 istrate judges for the southern border  
25 United States District Courts;

1 (xiii) activities to be funded by the  
2 Homeland Security Border Oversight Task  
3 Force;

4 (xiv) amounts and types of grants to  
5 States and other entities;

6 (xv) amounts and activities necessary  
7 to hire additional personnel and for start-  
8 up costs related to upgrading software and  
9 information technology necessary to transi-  
10 tion from a voluntary E-Verify system to  
11 mandatory employment verification system  
12 under section 274A of the Immigration  
13 and Nationality Act (8 U.S.C. 1324a)  
14 within 5 years;

15 (xvi) the number of additional per-  
16 sonnel and other costs associated with im-  
17 plementing the immigration courts and re-  
18 moval proceedings mandated in subtitle E  
19 of title III;

20 (xvii) the steps the Commissioner of  
21 Social Security plans to take to create a  
22 fraud-resistant, tamper-resistant, wear-re-  
23 sistant, and identity-theft resistant Social  
24 Security card, including—



1 (I) the types of equipment need-  
2 ed to create the card;

3 (II) the total estimated costs for  
4 completion that clearly delineates  
5 costs associated with the acquisition  
6 of equipment and transition to oper-  
7 ation, subdivided by fiscal year and  
8 including a description of the purpose  
9 by fiscal year for design, pre-acquisi-  
10 tion activities, production, and transi-  
11 tion to operation;

12 (III) the number and type of per-  
13 sonnel, including contract personnel,  
14 required to research, design, test, and  
15 produce the card; and

16 (IV) a detailed schedule for pro-  
17 duction of the card, including an esti-  
18 mated completion date at the pro-  
19 jected funding level provided in this  
20 Act; and

21 (xviii) the operations and maintenance  
22 costs associated with the implementation of  
23 clauses (i) through (xvii).

24 (F) ANNUAL REVISION.—The expenditure  
25 plan required in (E) shall be revised and sub-

mitted with the President’s budget proposals for fiscal year 2016, 2017, 2018, and 2019 pursuant to the requirements of section 1105(a) of title 31, United States Code.

(G) COMMISSION EXPENDITURE PLAN.—

(i) REQUIREMENT FOR PLAN.—If the Southern Border Security Commission referenced in section 4 is established, the Secretary shall submit to the appropriate committees of Congress, not later than 60 days after the submission of the review required by section 4(g), a plan for expenditure that achieves the recommendations in the report required by section 4(d) and the review required by section 4(g).

(ii) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In clause (i), the term “appropriate committees of Congress” means—

(I) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Finance of the Senate; and

(II) the Committee on Appropriations, the Committee on the Judiciary,

1                   and the Committee on Ways and  
2                   Means of the House of Representa-  
3                   tives.

4           (4) LIMITATION ON COLLECTION.—

5               (A) IN GENERAL.—No fee deposited in the  
6           Trust Fund may be collected except to the ex-  
7           tent that the expenditure of the fee is provided  
8           for in advance in an appropriations Act only to  
9           pay the costs of activities and services for which  
10          appropriations are authorized to be funded  
11          from the Trust Fund.

12           (B) RECEIPTS COLLECTED AS OFFSETTING  
13          RECEIPTS.—Until the date of the enactment of  
14          an Act making appropriations for the activities  
15          authorized under this Act through September  
16          30, 2014, the fees authorized by paragraph  
17          (2)(B) that are not deposited into the general  
18          fund pursuant to paragraph (3)(B) may be col-  
19          lected and shall be credited as to the Trust  
20          Fund to remain available until expended only to  
21          pay the costs of activities and services for which  
22          appropriations are authorized to be funded  
23          from the Trust Fund.

24          (b) COMPREHENSIVE IMMIGRATION REFORM START-  
25          UP ACCOUNT.—

1           (1) ESTABLISHMENT.—There is established in  
2       the Treasury a separate account, to be known as the  
3       “Comprehensive Immigration Reform Startup Ac-  
4       count,” (referred to in this section as the “Startup  
5       Account”), consisting of amounts transferred from  
6       the general fund of the Treasury under paragraph  
7       (2).

8           (2) DEPOSITS.—There is appropriated to the  
9       Startup Account, out of any funds in the Treasury  
10      not otherwise appropriated, \$3,000,000,000, to re-  
11      main available until expended on the later of the  
12      date that is—

13                (A) the date of the enactment of this Act;

14                or

15                (B) October 1, 2013.

16           (3) REPAYMENT OF STARTUP COSTS.—

17                (A) IN GENERAL.—Notwithstanding sec-  
18      tion 286(m) of the Immigration and Nationality  
19      Act (8 U.S.C. 1356(m)), 50 percent of fees col-  
20      lected under section 245B(c)(10)(A) of the Im-  
21      migration and Nationality Act, as added by sec-  
22      tion 2101 of this Act, shall be deposited month-  
23      ly in the general fund of the Treasury and used  
24      for Federal budget deficit reduction until the

1 funding provided by paragraph (2) has been re-  
2 paid.

3 (B) DEPOSIT IN THE IMMIGRATION EXAMI-  
4 NATIONS FEE ACCOUNT.—Fees collected in ex-  
5 cess of the amount referenced in subparagraph  
6 (A) shall be deposited in the Immigration Ex-  
7 aminations Fee Account, pursuant to section  
8 286(m) of the Immigration and Nationality Act  
9 (8 U.S.C. 1356(m)), and shall remain available  
10 until expended pursuant to section 286(n) of  
11 the Immigration and Nationality Act (8 U.S.C.  
12 1356(n)).

13 (4) USE OF FUNDS.—The Secretary shall use  
14 the amounts transferred to the Startup Account to  
15 pay for one-time and startup costs necessary to im-  
16 plement this Act, including—

17 (A) equipment, information technology sys-  
18 tems, infrastructure, and human resources;

19 (B) outreach to the public, including devel-  
20 opment and promulgation of any regulations,  
21 rules, or other public notice;

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

24 (D) anti-fraud programs and actions re-  
25 lated to implementation of this Act.

1           (5) EXPENDITURE PLAN.—Not later than 90  
2       days after the date of the enactment of this Act, the  
3       Secretary, in consultation with the Attorney General  
4       and the Secretary of Defense, shall submit to the  
5       Committee on Appropriations and the Committee on  
6       the Judiciary of the Senate and the Committee on  
7       Appropriations and the Committee on the Judiciary  
8       of the House of Representatives, a plan for expendi-  
9       ture of the one-time and startup funds in the Start-  
10      up Account that provides details on—

11                (A) the types of equipment, information  
12                technology systems, infrastructure, and human  
13                resources;

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

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

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

21      (c) ANNUAL AUDITS.—

22           (1) AUDITS REQUIRED.—Not later than Octo-  
23      ber 1 each year beginning on or after the date of the  
24      enactment of this Act, the Chief Financial Officer of  
25      the Department of Homeland Security shall, in con-

1       junction with the Inspector General of the Depart-  
2       ment of Homeland Security, conduct an audit of the  
3       Trust Fund.

4           (2) REPORTS.—Upon completion of each audit  
5       of the Trust Fund under paragraph (1), the Chief  
6       Financial Officer shall, in conjunction with the In-  
7       specter General, submit to Congress, and make  
8       available to the public on an Internet website of the  
9       Department available to the public, a jointly audited  
10      financial statement concerning the Trust Fund.

11          (3) ELEMENTS.—Each audited financial state-  
12      ment under paragraph (2) shall include the fol-  
13      lowing:

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

16           (B) A balance sheet reporting admitted as-  
17      sets, liabilities, capital and surplus.

18           (C) A statement of cash flow.

19           (D) Such other information on the Trust  
20      Fund as the Chief Financial Officer, the In-  
21      specter General, or the independent certified  
22      public accountant considers appropriate to fa-  
23      cilitate a comprehensive understanding of the  
24      Trust Fund during the year covered by the fi-  
25      nancial statement.

1 (d) DETERMINATION OF BUDGETARY EFFECTS.—

2 (1) EMERGENCY DESIGNATION FOR CONGRES-  
3 SIONAL ENFORCEMENT.—In the Senate, amounts  
4 appropriated by or deposited in the general fund of  
5 the Treasury pursuant to this section are designated  
6 as an emergency requirement pursuant to section  
7 403(a) of S. Con. Res. 13 (111th Congress), the  
8 concurrent resolution on the budget for fiscal year  
9 2010.

10 (2) EMERGENCY DESIGNATION FOR STATUTORY  
11 PAYGO.—Amounts appropriated by or deposited in  
12 the general fund of the Treasury pursuant to this  
13 section are designated as an emergency requirement  
14 under section 4(g) of the Statutory Pay-As-You-Go  
15 Act of 2010 (Public Law 111–139; 2 U.S.C.  
16 933(g)).

17 **SEC. 7. REFERENCE TO THE IMMIGRATION AND NATION-**  
18 **ALITY ACT.**

19 Except as otherwise expressly provided, whenever in  
20 this Act an amendment or repeal is expressed in terms  
21 of an amendment to, or repeal of, a section or other provi-  
22 sion, the reference shall be considered to be made to a  
23 section or other provision of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1101 et seq.).



1   **SEC. 8. DEFINITIONS.**

2       In this Act:

3           (1) DEPARTMENT.—Except as otherwise pro-  
4       vided, the term “Department” means the Depart-  
5       ment of Homeland Security.

6           (2) SECRETARY.—Except as otherwise provided,  
7       the term “Secretary” means the Secretary of Home-  
8       land Security.

9   **SEC. 9. GRANT ACCOUNTABILITY.**

10       (a) DEFINITIONS.—In this section:

11           (1) AWARDING ENTITIES.—The term “awarding  
12       entities” means the Secretary of Homeland Security,  
13       the Director of the Federal Emergency Management  
14       Agency (FEMA), the Chief of the Office of Citizen-  
15       ship and New Americans, as designated by this Act,  
16       and the Director of the National Science Founda-  
17       tion.

18           (2) NONPROFIT ORGANIZATION.—The term  
19       “nonprofit organization” means an organization that  
20       is described in section 501(c)(3) of the Internal Rev-  
21       enue Code of 1986 and is exempt from taxation  
22       under section 501(a) of such Code.

23           (3) UNRESOLVED AUDIT FINDING.—The term  
24       “unresolved audit finding” means a finding in a  
25       final audit report conducted by the Inspector Gen-  
26       eral of the Department of Homeland Security, or the

1       Inspector General for the National Science Founda-  
2       tion for grants awarded by the Director of the Na-  
3       tional Science Foundation, that the audited grantee  
4       has utilized grant funds for an unauthorized expend-  
5       iture or otherwise unallowable cost that is not closed  
6       or resolved within 1 year from the date when the  
7       final audit report is issued.

8       (b) ACCOUNTABILITY.—All grants awarded by  
9       awarding entities pursuant to this Act shall be subject to  
10      the following accountability provisions:

11           (1) AUDIT REQUIREMENT.—

12               (A) AUDITS.—Beginning in the first fiscal  
13              year beginning after the date of the enactment  
14              of this section, and in each fiscal year there-  
15              after, the Inspector General of the Department  
16              of Homeland Security, or the Inspector General  
17              for the National Science Foundation for grants  
18              awarded by the Director of the National  
19              Science Foundation, shall conduct audits of re-  
20              cipients of grants under this Act to prevent  
21              waste, fraud, and abuse of funds by grantees.  
22              The Inspector Generals shall determine the ap-  
23              propriate number of grantees to be audited  
24              each year.

1 (B) MANDATORY EXCLUSION.—A recipient  
2 of grant funds under this Act that is found to  
3 have an unresolved audit finding shall not be el-  
4 igible to receive grant funds under this Act dur-  
5 ing the first 2 fiscal years beginning after the  
6 end of the 1-year period described in subsection  
7 (a)(3).

8 (C) PRIORITY.—In awarding grants under  
9 this Act, the awarding entities shall give pri-  
10 ority to eligible applicants that did not have an  
11 unresolved audit finding during the 3 fiscal  
12 years before submitting an application for a  
13 grant under this Act.

14 (D) REIMBURSEMENT.—If an entity is  
15 awarded grant funds under this Act during the  
16 2-fiscal-year period during which the entity is  
17 barred from receiving grants under subpara-  
18 graph (B), the awarding entity shall—

19 (i) deposit an amount equal to the  
20 amount of the grant funds that were im-  
21 properly awarded to the grantee into the  
22 General Fund of the Treasury; and

23 (ii) seek to recoup the costs of the re-  
24 payment to the fund from the grant recipi-

1 ent that was erroneously awarded grant  
2 funds.

3 (2) NONPROFIT ORGANIZATION REQUIRE-  
4 MENTS.—

5 (A) PROHIBITION.—An awarding entity  
6 may not award a grant under this Act to a non-  
7 profit organization that holds money in offshore  
8 accounts for the purpose of avoiding paying the  
9 tax described in section 511(a) of the Internal  
10 Revenue Code of 1986.

11 (B) DISCLOSURE.—Each nonprofit organi-  
12 zation that is awarded a grant under this Act  
13 and uses the procedures prescribed in regula-  
14 tions to create a rebuttable presumption of rea-  
15 sonableness for the compensation of its officers,  
16 directors, trustees, and key employees, shall dis-  
17 close to the awarding entity, in the application  
18 for the grant, the process for determining such  
19 compensation, including the independent per-  
20 sons involved in reviewing and approving such  
21 compensation, the comparability data used, and  
22 contemporaneous substantiation of the delibera-  
23 tion and decision. Upon request, the awarding  
24 entity shall make the information disclosed

1 under this subparagraph available for public in-  
2 spection.

3 (3) CONFERENCE EXPENDITURES.—

4 (A) LIMITATION.—No amounts authorized  
5 to be appropriated to the Department of Home-  
6 land Security or the National Science Founda-  
7 tion for grant programs under this Act may be  
8 used by an awarding entity or by any individual  
9 or entity awarded discretionary funds through a  
10 cooperative agreement under this Act to host or  
11 support any expenditure for conferences that  
12 uses more than \$20,000 in funds made avail-  
13 able by the Department of Homeland Security  
14 or the National Science Foundation unless the  
15 Deputy Secretary for Homeland Security, or  
16 the Deputy Director of the National Science  
17 Foundation, or their designee, provides prior  
18 written authorization that the funds may be ex-  
19 pended to host the conference.

20 (B) WRITTEN APPROVAL.—Written ap-  
21 proval under subparagraph (A) shall include a  
22 written estimate of all costs associated with the  
23 conference, including the cost of all food, bev-  
24 erages, audio-visual equipment, honoraria for  
25 speakers, and entertainment.

1 (C) REPORT.—The Deputy Secretary of  
2 Homeland Security and the Deputy Director of  
3 the National Science Foundation shall submit  
4 an annual report to Congress on all conference  
5 expenditures approved under this paragraph.

6 (4) ANNUAL CERTIFICATION.—Beginning in the  
7 first fiscal year beginning after the date of the en-  
8 actment of this subsection, each awarding entity  
9 shall submit to Congress a report—

10 (A) indicating whether—

11 (i) all audits issued by the Offices of  
12 the Inspector General under paragraph (1)  
13 have been completed and reviewed by the  
14 appropriate individuals;

15 (ii) all mandatory exclusions required  
16 under paragraph (1)(B) have been issued;  
17 and

18 (iii) all reimbursements required  
19 under paragraph (1)(D) have been made;  
20 and

21 (B) including a list of any grant recipients  
22 excluded under paragraph (1) from the previous  
23 year.

**TITLE I—BORDER SECURITY**  
**AND OTHER PROVISIONS**  
**Subtitle A—Border Security**

**SEC. 1101. DEFINITIONS.**

In this title:

(1) **NORTHERN BORDER.**—The term “Northern border” means the international border between the United States and Canada.

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

(3) **SOUTHERN BORDER.**—The term “Southern border” means the international border between the United States and Mexico.

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

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

(a) **U.S. BORDER PATROL.**—Not later than September 30, 2021, the Secretary shall increase the number

1 of trained full-time active duty U.S. Border Patrol agents  
2 deployed to the Southern border to 38,405.

3 (b) U.S. CUSTOMS AND BORDER PROTECTION.—Not  
4 later than September 30, 2017, the Secretary shall in-  
5 crease the number of trained U.S. Customs and Border  
6 Protection officers by 3,500, compared to the number of  
7 such officers as of the date of the enactment of this Act.  
8 In allocating any new officers to international land ports  
9 of entry and high volume international airports, the pri-  
10 mary goals shall be to increase security and reduce wait  
11 times of commercial and passenger vehicles at inter-  
12 national land ports of entry and primary processing wait  
13 times at high volume international airports by 50 percent  
14 by fiscal year 2104 and screening all air passengers within  
15 45 minutes under normal operating conditions or 80 per-  
16 cent of passengers within 30 minutes by fiscal year 2016.  
17 The Secretary shall make progress in increasing such  
18 number of officers during each of the fiscal years 2014  
19 through 2017.

20 (c) AIR AND MARINE UNMANNED AIRCRAFT SYS-  
21 TEMS CREW.—Not later than September 30, 2015, the  
22 Secretary shall increase the number of trained U.S. Cus-  
23 toms and Border Protection Air and Marine unmanned  
24 aircraft systems crew, marine agent, and personnel by 160  
25 compared to the number of such officers as of the date



1 of the enactment of this Act. The Secretary shall increase  
2 and maintain Customs and Border Protection Office of  
3 Air and Marine flight hours to 130,000 annually.

4 (d) CONSTRUCTION.—Nothing in subsection (a) may  
5 be construed to preclude the Secretary from reassigning  
6 or stationing U.S. Customs and Border Protection Offi-  
7 cers and U.S. Border Patrol Agents from the Northern  
8 border to the Southern border.

9 (e) FUNDING.—Section 217(h)(3)(B) (8 U.S.C.  
10 1187(h)(3)(B)) is amended—

11 (1) in clause (i)—

12 (A) by striking “No later than 6 months  
13 after the date of enactment of the Travel Pro-  
14 motion Act of 2009, the” and inserting “The”;

15 (B) in subclause (I), by striking “and” at  
16 the end;

17 (C) by redesignating subclause (II) as sub-  
18 clause (III); and

19 (D) by inserting after subclause (I) the fol-  
20 lowing:

21 “(II) \$16 for border processing;

22 and”;

23 (2) in clause (ii), by striking “Amounts col-  
24 lected under clause (i)(II)” and inserting “Amounts  
25 collected under clause (i)(II) shall be deposited into

1 the Comprehensive Immigration Reform Trust Fund  
2 established under section 6(a)(1) of the Border Se-  
3 curity, Economic Opportunity, and Immigration  
4 Modernization Act, for the purpose of implementing  
5 section 1102(b) of such Act. Amounts collected  
6 under clause (i)(III)”; and

7 (3) by striking clause (iii).

8 (f) CORPORATION FOR TRAVEL PROMOTION.—Sec-  
9 tion 9(d)(2)(B) of the Travel Promotion Act of 2009 (22  
10 U.S.C. 2131(d)(2)(B)) is amended by striking “For each  
11 of fiscal years 2012 through 2015,” and inserting “For  
12 each fiscal year after 2012,”.

13 (g) RECRUITMENT OF FORMER MEMBERS OF THE  
14 ARMED FORCES AND MEMBERS OF RESERVE COMPO-  
15 NENTS OF THE ARMED FORCES.—

16 (1) REQUIREMENT FOR PROGRAM.—The Sec-  
17 retary, in conjunction with the Secretary of Defense,  
18 shall establish a program to actively recruit members  
19 of the reserve components of the Armed Forces and  
20 former members of the Armed Forces, including the  
21 reserve components, to serve in United States Cus-  
22 toms and Border Protection and United States Im-  
23 migration and Customs Enforcement.

24 (2) RECRUITMENT INCENTIVES.—

1                   (A) STUDENT LOAN REPAYMENTS FOR  
2                   UNITED STATES BORDER PATROL AGENTS WITH  
3                   A THREE-YEAR COMMITMENT.—Section 5379(b)  
4                   of title 5, United States Code, is amended by  
5                   adding at the end the following new paragraph:

6           “(4) In the case of an employee who is otherwise eligi-  
7   ble for benefits under this section and who is serving as  
8   a full-time active-duty United States border patrol agent  
9   within the Department of Homeland Security—

10           “(A) paragraph (2)(A) shall be applied by sub-  
11   stituting ‘\$20,000’ for ‘\$10,000’; and

12           “(B) paragraph (2)(B) shall be applied by sub-  
13   stituting ‘\$80,000’ for ‘\$60,000’.”.

14                   (B) RECRUITMENT AND RELOCATION BO-  
15                   NUSES AND RETENTION ALLOWANCES FOR PER-  
16                   SONNEL OF THE DEPARTMENT OF HOMELAND  
17                   SECURITY.—The Secretary of Homeland Secu-  
18                   rity shall ensure that the authority to pay re-  
19                   cruitment and relocation bonuses under section  
20                   5753 of title 5, United States Code, the author-  
21                   ity to pay retention bonuses under section 5754  
22                   of such title, and any other similar authorities  
23                   available under any other provision of law, rule,  
24                   or regulation, are exercised to the fullest extent

1           allowable in order to encourage service in the  
2           Department of Homeland Security.

3           (3) REPORT ON RECRUITMENT INCENTIVES.—

4                 (A) IN GENERAL.—Not later than 90 days  
5           after the date of the enactment of this Act, the  
6           Secretary and the Secretary of Defense shall  
7           jointly submit to the appropriate committees of  
8           Congress a report including an assessment of  
9           the desirability and feasibility of offering incen-  
10          tives to members of the reserve components of  
11          the Armed Forces and former members of the  
12          Armed Forces, including the reserve compo-  
13          nents, for the purpose of encouraging such  
14          members to serve in United States Customs  
15          and Border Protection and Immigration and  
16          Customs Enforcement.

17                 (B) CONTENT.—The report required by  
18          subparagraph (A) shall include—

19                         (i) a description of various monetary  
20                         and non-monetary incentives considered for  
21                         purposes of the report; and

22                         (ii) an assessment of the desirability  
23                         and feasibility of utilizing any such incen-  
24                         tive.

1           (4) APPROPRIATE COMMITTEES OF CONGRESS  
2       DEFINED.—The term “appropriate committees of  
3       Congress” means—

4           (A) the Committee on Appropriations, the  
5       Committee on Armed Services, and the Com-  
6       mittee on Homeland Security and Govern-  
7       mental Affairs of the Senate; and

8           (B) the Committee on Appropriations, the  
9       Committee on Armed Services, and the Com-  
10      mittee on Homeland Security of the House of  
11      Representatives.

12      (h) REPORT.—Prior to the hiring and training of ad-  
13      ditional U.S. Customs and Border Protection officers  
14      under subsection (a), the Secretary shall submit to Con-  
15      gress a report on current wait times at land, air, and sea  
16      ports of entry, officer staffing at land, air, and sea ports  
17      of entry and projections for new officer allocation at land,  
18      air, and sea ports of entry designed to implement sub-  
19      section (a), including the need to hire non-law enforcement  
20      personnel for administrative duties.

21      **SEC. 1103. NATIONAL GUARD SUPPORT TO SECURE THE**  
22                                   **SOUTHERN BORDER.**

23      (a) IN GENERAL.—With the approval of the Sec-  
24      retary of Defense, the Governor of a State may order any  
25      unit or personnel of the National Guard of such State to

1 perform operations and missions under section 502(f) of  
2 title 32, United States Code, in the Southwest Border re-  
3 gion for the purposes of assisting U.S. Customs and Bor-  
4 der Protection in securing the Southern border.

5 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

6 (1) IN GENERAL.—National Guard units and  
7 personnel deployed under subsection (a) may be as-  
8 signed such operations and missions specified in sub-  
9 section (c) as may be necessary to secure the South-  
10 ern border.

11 (2) NATURE OF DUTY.—The duty of National  
12 Guard personnel performing operations and missions  
13 described in paragraph (1) shall be full-time duty  
14 under title 32, United States Code.

15 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-  
16 erations and missions assigned under subsection (b) shall  
17 include the temporary authority—

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

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

22 (3) to deploy additional unmanned aerial sys-  
23 tems and manned aircraft sufficient to maintain  
24 continuous surveillance of the Southern border;

1           (4) to deploy and provide capability for radio  
2       communications interoperability between U.S. Cus-  
3       toms and Border Protection and State, local, and  
4       tribal law enforcement agencies;

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

8           (6) to provide assistance to U.S. Customs and  
9       Border Protection, particularly in rural, high-traf-  
10      ficked areas, as designated by the Commissioner of  
11      U.S. Customs and Border Protection.

12      (d) MATERIEL AND LOGISTICAL SUPPORT.—The  
13      Secretary of Defense shall deploy such materiel and equip-  
14      ment and logistical support as may be necessary to ensure  
15      success of the operations and missions conducted by the  
16      National Guard under this section.

17      (e) EXCLUSION FROM NATIONAL GUARD PER-  
18      SONNEL STRENGTH LIMITATIONS.—National Guard per-  
19      sonnel deployed under subsection (a) shall not be included  
20      in—

21           (1) the calculation to determine compliance  
22      with limits on end strength for National Guard per-  
23      sonnel; or

24           (2) limits on the number of National Guard  
25      personnel that may be placed on active duty for

1 operational support under section 115 of title 10,  
2 United States Code.

3 **SEC. 1104. ENHANCEMENT OF EXISTING BORDER SECURITY**  
4 **OPERATIONS.**

5 (a) BORDER CROSSING PROSECUTIONS.—

6 (1) IN GENERAL.—From the amounts made  
7 available pursuant to the appropriations in para-  
8 graph (3), funds shall be made available—

9 (A) to increase the number of border cross-  
10 ing prosecutions in the Tucson Sector of the  
11 Southwest border region to up to 210 prosecu-  
12 tions per day through increasing funding avail-  
13 able for—

14 (i) attorneys and administrative sup-  
15 port staff in the Office of the United  
16 States Attorney for Tucson;

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

20 (iii) pre-trial services;

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

23 (v) additional personnel, including  
24 Deputy United States Marshals in the  
25 United States Marshals Office for Tucson



1 to perform intake, coordination, transpor-  
2 tation, and court security; and

3 (B) reimburse Federal, State, local, and  
4 tribal law enforcement agencies for any deten-  
5 tion costs related to the border crossing pros-  
6 ecutions carried out pursuant to subparagraph  
7 (A).

8 (2) ADDITIONAL MAGISTRATE JUDGES TO AS-  
9 SIST WITH INCREASED CASELOAD.—The chief judge  
10 of the United States District Court for the District  
11 of Arizona is authorized to appoint additional full-  
12 time magistrate judges, who, consistent with the  
13 Constitution and laws of the United States, shall  
14 have the authority to hear cases and controversies in  
15 the judicial district in which the respective judges  
16 are appointed.

17 (3) FUNDING.—There are authorized to be ap-  
18 propriated, from the Comprehensive Immigration  
19 Reform Trust Fund established under section  
20 6(a)(1), such sums as may be necessary to carry out  
21 this subsection.

22 (b) OPERATION STONEGARDEN.—

23 (1) IN GENERAL.—The Federal Emergency  
24 Management Agency shall enhance law enforcement  
25 preparedness and operational readiness along the

1        borders of the United States through Operation  
2        Stonegarden. The amounts available under this  
3        paragraph are in addition to any other amounts oth-  
4        erwise made available for Operation Stonegarden.  
5        Allocations for grants and reimbursements to law  
6        enforcement agencies under this paragraph shall be  
7        made by the Federal Emergency Management Agen-  
8        cy through a competitive process.

9            (2) FUNDING.—There are authorized to be ap-  
10        propriated, from the amounts made available under  
11        section 6(a)(3)(A)(i), such sums as may be nec-  
12        essary to carry out this subsection.

13        (c) INFRASTRUCTURE IMPROVEMENTS.—

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

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

21            (B) analyze the feasibility of creating addi-  
22        tional Border Patrol sectors along the Southern  
23        border to interrupt drug trafficking operations.

1           (2) FORWARD OPERATING BASES.—The Sec-  
2       retary shall enhance the security of the Southwest  
3       border region by—

4           (A) establishing additional permanent for-  
5       ward operating bases for the U.S. Border Pa-  
6       trol, as needed;

7           (B) upgrading the existing forward oper-  
8       ating bases to include modular buildings, elec-  
9       tricity, and potable water; and

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

14          (3) SAFE AND SECURE BORDER INFRASTRUC-  
15       TURE.—The Secretary and the Secretary of Trans-  
16       portation, in consultation with the governors of the  
17       States in the Southwest border region and the  
18       Northern border region, shall establish a grant pro-  
19       gram, which shall be administered by the Secretary  
20       of Transportation and the General Services Adminis-  
21       tration, to construct transportation and supporting  
22       infrastructure improvements at existing and new  
23       international border crossings necessary to facilitate  
24       safe, secure, and efficient cross border movement of  
25       people, motor vehicles, and cargo.

1           (4) AUTHORIZATION OF APPROPRIATIONS.—

2       There is authorized to be appropriated for each of  
3       fiscal years 2014 through 2018 such sums as may  
4       be necessary to carry out this subsection.

5       (d) ADDITIONAL PERMANENT DISTRICT COURT  
6 JUDGESHIPS IN SOUTHWEST BORDER STATES.—

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

9               (A) 2 additional district judges for the dis-  
10       trict of Arizona;

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

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

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

17       (2) CONVERSIONS OF TEMPORARY DISTRICT  
18 COURT JUDGESHIPS.—The existing judgeships for  
19 the district of Arizona and the central district of  
20 California authorized by section 312(c) of the 21st  
21 Century Department of Justice Appropriations Au-  
22 thorization Act (28 U.S.C. 133 note; Public Law  
23 107–273; 116 Stat. 1788), as of the effective date  
24 of this Act, shall be authorized under section 133 of  
25 title 28, United States Code, and the incumbents in

1       those offices shall hold the office under section 133  
 2       of title 28, United States Code, as amended by this  
 3       Act.

4               (3) TECHNICAL AND CONFORMING AMEND-  
 5       MENTS.—The table contained in section 133(a) of  
 6       title 28, United States Code, is amended—

7               (A) by striking the item relating to the dis-  
 8       trict of Arizona and inserting the following:

“Arizona ..... 15”;

9               (B) by striking the item relating to Cali-  
 10       fornia and inserting the following:

“California:

Northern .....	14
Eastern .....	9
Central .....	28
Southern .....	13”; and

11              (C) by striking the item relating to Texas  
 12       and inserting the following:

“Texas:

Northern .....	12
Southern .....	20
Eastern .....	7
Western .....	15”.

13              (4) INCREASE IN FILING FEES.—

14              (A) IN GENERAL.—Section 1914(a) of title  
 15       28, United States Code, is amended by striking  
 16       “\$350” and inserting “\$360”.

17              (B) EXPENDITURE LIMITATION.—Incre-  
 18       mental amounts collected by reason of the en-

actment of this paragraph shall be deposited as offsetting receipts in the “Judiciary Filing Fee” special fund of the Treasury established under section 1931 of title 28, United States Code. Such amounts shall be available solely for the purpose of facilitating the processing of civil cases, but only to the extent specifically appropriated by an Act of Congress enacted after the date of the enactment of this Act.

(5) WHISTLEBLOWER PROTECTION.—

(A) IN GENERAL.—No officer, employee, agent, contractor, or subcontractor of the judicial branch may discharge, demote, threaten, suspend, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee to provide information, cause information to be provided, or otherwise assist in an investigation regarding any possible violation of Federal law or regulation, or misconduct, by a judge, justice, or any other employee in the judicial branch, which may assist in the investigation of the possible violation or misconduct.

1 (B) CIVIL ACTION.—An employee injured  
2 by a violation of subparagraph (A) may, in a  
3 civil action, obtain appropriate relief.

4 **SEC. 1105. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

5 (a) DEFINITIONS.—In this section:

6 (1) FEDERAL LANDS.—The term “Federal  
7 lands” includes all land under the control of the Sec-  
8 retary concerned that is located within the South-  
9 west border region in the State of Arizona along the  
10 international border between the United States and  
11 Mexico.

12 (2) SECRETARY CONCERNED.—The term “Sec-  
13 retary concerned” means—

14 (A) with respect to land under the jurisdic-  
15 tion of the Secretary of Agriculture, the Sec-  
16 retary of Agriculture; and

17 (B) with respect to land under the jurisdic-  
18 tion of the Secretary of the Interior, the Sec-  
19 retary of the Interior.

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

22 (1) the Secretary concerned, notwithstanding  
23 any other provision of law, shall authorize and pro-  
24 vide U.S. Customs and Border Protection personnel

1 with immediate access to Federal lands for security  
2 activities, including—

3 (A) routine motorized patrols; and

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

6 (2) the security activities described in para-  
7 graph (1) shall be conducted, to the maximum ex-  
8 tent practicable, in a manner that the Secretary de-  
9 termines will best protect the natural and cultural  
10 resources on Federal lands; and

11 (3) the Secretary concerned may provide edu-  
12 cation and training to U.S. Customs and Border  
13 Protection personnel on the natural and cultural re-  
14 sources present on individual Federal land units.

15 (c) PROGRAMMATIC ENVIRONMENTAL IMPACT  
16 STATEMENT.—

17 (1) IN GENERAL.—After implementing sub-  
18 section (b), the Secretary, in consultation with the  
19 Secretaries concerned, shall prepare and publish in  
20 the Federal Register a notice of intent to prepare a  
21 programmatic environmental impact statement in  
22 accordance with the National Environmental Policy  
23 Act of 1969 (42 U.S.C. 4321 et seq.) to analyze the  
24 impacts of the activities described in subsection (b).



1           (2) EFFECT ON PROCESSING APPLICATION AND  
2       SPECIAL USE PERMITS.—The pending completion of  
3       a programmatic environmental impact statement  
4       under this section shall not result in any delay in the  
5       processing or approving of applications or special  
6       use permits by the Secretaries concerned for the ac-  
7       tivities described in subsection (b).

8           (3) AMENDMENT OF LAND USE PLANS.—The  
9       Secretaries concerned shall amend any land use  
10      plans, as appropriate, upon completion of the pro-  
11      grammatic environmental impact statement de-  
12      scribed in subsection (b).

13          (4) SCOPE OF PROGRAMMATIC ENVIRONMENTAL  
14      IMPACT STATEMENT.—The programmatic environ-  
15      mental impact statement described in paragraph  
16      (1)—

17                (A) may be used to advise the Secretary on  
18                the impact on natural and cultural resources on  
19                Federal lands; and

20                (B) shall not control, delay, or restrict ac-  
21                tions by the Secretary to achieve effective con-  
22                trol on Federal lands.

23          (d) INTERMINGLED STATE AND PRIVATE LAND.—  
24      This section shall not apply to any private or State-owned  
25      land within the boundaries of Federal lands.

1   **SEC. 1106. EQUIPMENT AND TECHNOLOGY.**

2           (a) **ENHANCEMENTS.**—The Commissioner of U.S.  
3 Customs and Border Protection, working through U.S.  
4 Border Patrol, shall—

5               (1) deploy additional mobile, video, and agent-  
6 portable surveillance systems, and unarmed, un-  
7 manned aerial vehicles in the Southwest border re-  
8 gion as necessary to provide 24-hour operation and  
9 surveillance;

10              (2) operate unarmed unmanned aerial vehicles  
11 along the Southern border for 24 hours per day and  
12 for 7 days per week;

13              (3) deploy unarmed additional fixed-wing air-  
14 craft and helicopters along the Southern border;

15              (4) acquire new rotorcraft and make upgrades  
16 to the existing helicopter fleet;

17              (5) increase horse patrols in the Southwest bor-  
18 der region; and

19              (6) acquire and deploy watercraft and other  
20 equipment to provide support for border-related  
21 maritime anti-crime activities.

22           (b) **LIMITATION.**—

23               (1) **IN GENERAL.**—Notwithstanding paragraphs  
24 (1) and (2) of subsection (a), and except as provided  
25 in paragraph (2), U.S. Border Patrol may not oper-  
26 ate unarmed, unmanned aerial vehicles in the San

1 Diego and El Centro Sectors, except within 3 miles  
2 of the Southern border.

3 (2) EXCEPTION.—The limitation under this  
4 subsection shall not restrict the maritime operations  
5 of U.S. Customs and Border Protection.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
7 tion to amounts otherwise authorized to be appropriated,  
8 there is authorized to be appropriated to U.S. Customs  
9 and Border Protection such sums as may be necessary to  
10 carry out subsection (a) during fiscal years 2014 through  
11 2018.

12 **SEC. 1107. ACCESS TO EMERGENCY PERSONNEL.**

13 (a) SOUTHWEST BORDER REGION EMERGENCY COM-  
14 MUNICATIONS GRANTS.—

15 (1) IN GENERAL.—The Secretary, in consulta-  
16 tion with the governors of the States in the South-  
17 west border region, shall establish a 2-year grant  
18 program, to be administered by the Secretary, to im-  
19 prove emergency communications in the Southwest  
20 border region.

21 (2) ELIGIBILITY FOR GRANTS.—An individual  
22 is eligible to receive a grant under this subsection if  
23 the individual demonstrates that he or she—

24 (A) regularly resides or works in the  
25 Southwest border region;

1 (B) is at greater risk of border violence  
2 due to the lack of cellular service at his or her  
3 residence or business and his or her proximity  
4 to the Southern border.

5 (3) USE OF GRANTS.—Grants awarded under  
6 this subsection may be used to purchase satellite  
7 telephone communications systems and service  
8 that—

9 (A) can provide access to 9–1–1 service;  
10 and

11 (B) are equipped with global positioning  
12 systems.

13 (4) AUTHORIZATION OF APPROPRIATIONS.—  
14 There is authorized to be appropriated such sums as  
15 may be necessary to carry out the grant program es-  
16 tablished under this subsection.

17 (b) INTEROPERABLE COMMUNICATIONS FOR LAW  
18 ENFORCEMENT.—

19 (1) FEDERAL LAW ENFORCEMENT.—There are  
20 authorized to be appropriated, to the Department,  
21 the Department of Justice, and the Department of  
22 the Interior, during the 5-year period beginning on  
23 the date of the enactment of this Act, such sums as  
24 may be necessary—

1 (A) to purchase, through a competitive  
2 procurement process, P25-compliant radios,  
3 which may include a multi-band option, for  
4 Federal law enforcement agents working in the  
5 Southwest border region in support of the ac-  
6 tivities of U.S. Customs and Border Protection  
7 and U.S. Immigration and Customs Enforce-  
8 ment, including law enforcement agents of the  
9 Drug Enforcement Administration, the Bureau  
10 of Alcohol, Tobacco, Firearms and Explosives,  
11 the Department of the Interior, and the Forest  
12 Service; and

13 (B) to upgrade, through a competitive pro-  
14 curement process, the communications network  
15 of the Department of Justice to ensure coverage  
16 and capacity, particularly when immediate ac-  
17 cess is needed in times of crisis, in the South-  
18 west Border region for appropriate law enforce-  
19 ment personnel of the Department of Justice  
20 (including the Drug Enforcement Administra-  
21 tion and the Bureau of Alcohol, Tobacco, Fire-  
22 arms and Explosives), the Department (includ-  
23 ing U.S. Immigration and Customs Enforce-  
24 ment and U.S. Customs and Border Protec-  
25 tion), the United States Marshals Service, other

1 Federal agencies, the State of Arizona, tribes,  
2 and local governments.

3 (2) STATE AND LOCAL LAW ENFORCEMENT.—

4 (A) AUTHORIZATION OF APPROPRIA-  
5 TIONS.—There is authorized to be appropriated  
6 to the Department of Justice, during the 5-year  
7 period beginning on the date of the enactment  
8 of this Act, such sums as may be necessary to  
9 purchase, through a competitive procurement  
10 process, P25-compliant radios, which may in-  
11 clude a multi-band option, for State and local  
12 law enforcement agents working in the South-  
13 west border region.

14 (B) ACCESS TO FEDERAL SPECTRUM.—If  
15 a State, tribal, or local law enforcement agency  
16 in the Southwest border region experiences an  
17 emergency situation that necessitates immediate  
18 communication with the Department of Justice,  
19 the Department, the Department of the Inte-  
20 rior, or any of their respective subagencies,  
21 such law enforcement agency shall have access  
22 to the spectrum assigned to such Federal agen-  
23 cy for the duration of such emergency situation.

24 (c) DISTRESS BEACONS.—

1           (1) IN GENERAL.—The Commissioner of U.S.  
2 Customs and Border Protection, working through  
3 U.S. Border Patrol, shall—

4           (A) identify areas near the Northern bor-  
5 der and the Southern border where migrant  
6 deaths are occurring due to climatic and envi-  
7 ronmental conditions; and

8           (B) deploy up to 1,000 beacon stations in  
9 the areas identified pursuant to subparagraph  
10 (A).

11          (2) FEATURES.—Beacon stations deployed pur-  
12 suant to paragraph (1) should—

13           (A) include a self-powering mechanism,  
14 such as a solar-powered radio button, to signal  
15 U.S. Border Patrol personnel or other emer-  
16 gency response personnel that a person at that  
17 location is in distress;

18           (B) include a self-powering cellular phone  
19 relay limited to 911 calls to allow persons in  
20 distress in the area who are unable to get to the  
21 beacon station to signal their location and ac-  
22 cess emergency personnel; and

23           (C) be movable to allow U.S. Border Pa-  
24 trol to relocate them as needed—

25           (i) to mitigate migrant deaths;

- 1 (ii) to facilitate access to emergency  
2 personnel; and  
3 (iii) to address any use of the beacons  
4 for diversion by criminals.

5 **SEC. 1108. SOUTHWEST BORDER REGION PROSECUTION**  
6 **INITIATIVE.**

7 (a) REIMBURSEMENT TO STATE AND LOCAL PROS-  
8 ECUTORS FOR FEDERALLY INITIATED CRIMINAL  
9 CASES.—The Attorney General shall reimburse State,  
10 county, tribal, and municipal governments for costs associ-  
11 ated with the prosecution, pretrial services and detention,  
12 clerical support, and public defenders' services associated  
13 with the prosecution of federally initiated immigration-re-  
14 lated criminal cases declined by local offices of the United  
15 States Attorneys.

16 (b) EXCEPTION.—Reimbursement under subsection  
17 (a) shall not be available, at the discretion of the Attorney  
18 General, if the Attorney General determines that there is  
19 reason to believe that the jurisdiction seeking reimburse-  
20 ment has engaged in unlawful conduct in connection with  
21 immigration-related apprehensions.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
23 authorized to be appropriated such sums as may be nec-  
24 essary to carry out subsection (a) during fiscal years 2014  
25 through 2018.



1 **SEC. 1109. INTERAGENCY COLLABORATION.**

2 The Assistant Secretary of Defense for Research and  
3 Engineering shall collaborate with the Under Secretary of  
4 Homeland Security for Science and Technology to identify  
5 equipment and technology used by the Department of De-  
6 fense that could be used by U.S. Customs and Border Pro-  
7 tection to improve the security of the Southern border  
8 by—

- 9 (1) detecting border tunnels;  
10 (2) detecting the use of ultralight aircraft;  
11 (3) enhancing wide aerial surveillance; and  
12 (4) otherwise improving the enforcement of  
13 such border.

14 **SEC. 1110. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

15 (a) SCAAP REAUTHORIZATION.—Section  
16 241(i)(5)(C) (8 U.S.C. 1231(i)(5)) is amended by striking  
17 “2011.” and inserting “2015.”.

18 (b) SCAAP ASSISTANCE FOR STATES.—

19 (1) ASSISTANCE FOR STATES INCARCERATING  
20 UNDOCUMENTED ALIENS CHARGED WITH CERTAIN  
21 CRIMES.—Section 241(i)(3)(A) (8 U.S.C.  
22 1231(i)(3)(A)) is amended by inserting “charged  
23 with or” before “convicted”.

24 (2) ASSISTANCE FOR STATES INCARCERATING  
25 UNVERIFIED ALIENS.—Section 241(i) (8 U.S.C.

1       1231(i)), as amended by subsection (a), is further  
2       amended—

3               (A) by redesignating paragraphs (4), (5),  
4               and (6), as paragraphs (5), (6), and (7), re-  
5               spectively;

6               (B) in paragraph (7), as so redesignated,  
7               by striking “(5)” and inserting “(6)”; and

8               (C) by adding after paragraph (3) the fol-  
9               lowing:

10              “(4) In the case of an alien whose immigration  
11              status is unable to be verified by the Secretary of  
12              Homeland Security, and who would otherwise be an  
13              undocumented criminal alien if the alien is unlaw-  
14              fully present in the United States, the Attorney Gen-  
15              eral shall compensate the State or political subdivi-  
16              sion of the State for incarceration of the alien, con-  
17              sistent with subsection (i)(2).”.

18   **SEC. 1111. USE OF FORCE.**

19       Not later than 180 days after the date of the enact-  
20       ment of this Act, the Secretary, in consultation with the  
21       Assistant Attorney General for the Civil Rights Division  
22       of the Department of Justice, shall issue policies gov-  
23       erning the use of force by all Department personnel that—

24              (1) require all Department personnel to report  
25              each use of force; and

1 (2) establish procedures for—

2 (A) accepting and investigating complaints  
3 regarding the use of force by Department per-  
4 sonnel;

5 (B) disciplining Department personnel who  
6 violate any law or Department policy relating to  
7 the use of force; and

8 (C) reviewing all uses of force by Depart-  
9 ment personnel to determine whether the use of  
10 force—

11 (i) complied with Department policy;

12 or

13 (ii) demonstrates the need for changes  
14 in policy, training, or equipment.

15 **SEC. 1112. TRAINING FOR BORDER SECURITY AND IMMI-**  
16 **GRATION ENFORCEMENT OFFICERS.**

17 (a) IN GENERAL.—The Secretary shall ensure that  
18 U.S. Customs and Border Protection officers, U.S. Border  
19 Patrol agents, U.S. Immigration and Customs Enforce-  
20 ment officers and agents, United States Air and Marine  
21 Division agents, and agriculture specialists stationed with-  
22 in 100 miles of any land or marine border of the United  
23 States or at any United States port of entry receive appro-  
24 priate training, which shall be prepared in collaboration

1 with the Assistant Attorney General for the Civil Rights  
2 Division of the Department of Justice, in—

3 (1) identifying and detecting fraudulent travel  
4 documents;

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

7 (3) the scope of enforcement authorities, includ-  
8 ing interrogations, stops, searches, seizures, arrests,  
9 and detentions;

10 (4) the use of force policies issued by the Sec-  
11 retary pursuant to section 1111;

12 (5) immigration laws, including screening, iden-  
13 tifying, and addressing vulnerable populations, such  
14 as children, victims of crime and human trafficking,  
15 and individuals fleeing persecution or torture;

16 (6) social and cultural sensitivity toward border  
17 communities;

18 (7) the impact of border operations on commu-  
19 nities; and

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

22 (b) TRAINING FOR BORDER COMMUNITY LIAISON  
23 OFFICERS.—The Secretary shall ensure that border com-  
24 munities liaison officers in Border Patrol sectors along the  
25 international borders between the United States and Mex-

1 ico and between the United States and Canada receive  
2 training to better—

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

7 (2) foster and institutionalize consultation with  
8 border communities;

9 (3) consult with border communities on Depart-  
10 ment programs, policies, strategies, and directives;  
11 and

12 (4) receive Department performance assess-  
13 ments from border communities.

14 (c) HUMANE CONDITIONS OF CONFINEMENT FOR  
15 CHILDREN IN U.S. CUSTOMS AND BORDER PROTECTION  
16 CUSTODY.—Not later than 90 days after the date of the  
17 enactment of this Act, the Secretary shall establish stand-  
18 ards to ensure that children in the custody of U.S. Cus-  
19 toms and Border Protection—

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

23 (2) receive adequate nutrition;

24 (3) are provided with climate-appropriate cloth-  
25 ing, footwear, and bedding;

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

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

5       **SEC. 1113. DEPARTMENT OF HOMELAND SECURITY BOR-**  
6                       **DER OVERSIGHT TASK FORCE.**

7       (a) ESTABLISHMENT.—

8           (1) IN GENERAL.—There is established an inde-  
9       pendent task force, which shall be known as the De-  
10      partment of Homeland Security Border Oversight  
11      Task Force (referred to in this section as the “DHS  
12      Task Force”).

13       (2) DUTIES.—The DHS Task Force shall—

14           (A) review and make recommendations re-  
15       garding immigration and border enforcement  
16       policies, strategies, and programs that take into  
17       consideration their impact on border and tribal  
18       communities;

19           (B) recommend ways in which the Border  
20       Communities Liaison Offices can strengthen re-  
21       lations and collaboration between communities  
22       in the border regions and the Department, the  
23       Department of Justice, and other Federal agen-  
24       cies that carry out such policies, strategies, and  
25       programs;

1 (C) evaluate how the policies, strategies,  
2 and programs of Federal agencies operating  
3 along the international borders between the  
4 United States and Mexico and between the  
5 United States and Canada protect the due proc-  
6 ess, civil, and human rights of border residents,  
7 visitors, and migrants at and near such borders;  
8 and

9 (D) evaluate and make recommendations  
10 regarding the training of border enforcement  
11 personnel described in section 1112.

12 (3) MEMBERSHIP.—

13 (A) IN GENERAL.—The DHS Task Force  
14 shall be composed of 33 members, appointed by  
15 the President, who have expertise in migration,  
16 local crime indices, civil and human rights,  
17 community relations, cross-border trade and  
18 commerce, quality of life indicators, or other  
19 pertinent experience, of whom—

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

22 (I) 2 local government elected of-  
23 ficials;

24 (II) 2 local law enforcement offi-  
25 cials;

1 (III) 2 tribal government offi-  
2 cials;

3 (IV) 2 civil rights advocates;

4 (V) 1 business representative;

5 (VI) 1 higher education rep-  
6 resentative;

7 (VII) 1 private land owner rep-  
8 resentative;

9 (VIII) 1 representative of a faith  
10 community; and

11 (IX) 2 representatives of U.S.  
12 Border Patrol; and

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

15 (I) 3 local government elected of-  
16 ficials;

17 (II) 3 local law enforcement offi-  
18 cials; (aa)

19 (III) 2 tribal government offi-  
20 cials;

21 (IV) 3 civil rights advocates;

22 (V) 2 business representatives;

23 (VI) 1 higher education rep-  
24 resentative;



1 (VII) 2 private land owner rep-  
2 resentatives;

3 (VIII) 1 representative of a faith  
4 community; and

5 (IX) 2 representatives of U.S.  
6 Border Patrol.

7 (B) TERM OF SERVICE.—Members of the  
8 Task Force shall be appointed for the shorter  
9 of—

10 (i) 3 years; or

11 (ii) the life of the DHS Task Force.

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

18 (b) OPERATIONS.—

19 (1) HEARINGS.—The DHS Task Force may,  
20 for the purpose of carrying out its duties, hold hear-  
21 ings, sit and act, take testimony, receive evidence,  
22 and administer oaths.

23 (2) RECOMMENDATIONS.—The DHS Task  
24 Force may make findings or recommendations to the

1 Secretary related to the duties described in sub-  
2 section (a)(2).

3 (3) RESPONSE.—Not later than 180 days after  
4 receiving the findings and recommendations from  
5 the DHS Task Force under paragraph (2), the Sec-  
6 retary shall issue a response that describes how the  
7 Department has addressed, or will address, such  
8 findings and recommendations. If the Secretary dis-  
9 agrees with any finding of the DHS Task Force, the  
10 Secretary shall provide an explanation for the dis-  
11 agreement.

12 (4) INFORMATION FROM FEDERAL AGENCIES.—  
13 The Chair, or 16 members of the DHS Task Force,  
14 may request statistics relating to the duties de-  
15 scribed in subsection (a)(2) directly from any Fed-  
16 eral agency, which shall, to the extent authorized by  
17 law, furnish such information, suggestions, esti-  
18 mates, and statistics directly to the DHS Task  
19 Force.

20 (5) COMPENSATION.—Members of the DHS  
21 Task Force shall serve without pay, but shall be re-  
22 imbursed for reasonable travel and subsistence ex-  
23 penses incurred in the performance of their duties.

24 (c) REPORT.—Not later than 2 years after its first  
25 meeting, the DHS Task Force shall submit a final report

1 to the President, Congress, and the Secretary that con-  
2 tains—

3 (1) findings with respect to the duties of the  
4 DHS Task Force; and

5 (2) recommendations regarding border and im-  
6 migration enforcement policies, strategies, and pro-  
7 grams, including—

8 (A) a recommendation as to whether the  
9 DHS Task Force should continue to operate;  
10 and

11 (B) a description of any duties for which  
12 the DHS Task Force should be responsible  
13 after the termination date described in sub-  
14 section (e).

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated such sums as may be  
17 necessary to carry out this section for each of the fiscal  
18 years 2014 through 2017.

19 (e) SUNSET.—The DHS Task Force shall terminate  
20 operations 60 days after the date on which the DHS Task  
21 Force submits the report described in subsection (c).

1 **SEC. 1114. OMBUDSMAN FOR IMMIGRATION RELATED CON-**  
2 **CERNS OF THE DEPARTMENT OF HOMELAND**  
3 **SECURITY.**

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

7 **“SEC. 104. OMBUDSMAN FOR IMMIGRATION RELATED CON-**  
8 **CERNS.**

9 “(a) IN GENERAL.—There shall be within the De-  
10 partment an Ombudsman for Immigration Related Con-  
11 cerns (in this section referred to as the ‘Ombudsman’).  
12 The individual appointed as Ombudsman shall have a  
13 background in immigration law as well as civil and human  
14 rights law. The Ombudsman shall report directly to the  
15 Deputy Secretary.

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

18 “(1) To receive and resolve complaints from in-  
19 dividuals and employers and assist in resolving prob-  
20 lems with the immigration components of the De-  
21 partment.

22 “(2) To conduct inspections of the facilities or  
23 contract facilities of the immigration components of  
24 the Department.

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

4           “(4) To identify areas in which individuals and  
5           employers have problems in dealing with the immi-  
6           gration components of the Department.

7           “(5) To the extent practicable, to propose  
8           changes in the administrative practices of the immi-  
9           gration components of the Department to mitigate  
10          problems identified under paragraph (4).

11          “(6) To review, examine, and make rec-  
12          ommendations regarding the immigration and en-  
13          forcement policies, strategies, and programs of U.S.  
14          Customs and Border Protection, U.S. Immigration  
15          and Customs Enforcement, and U.S. Citizenship and  
16          Immigration Services.

17          “(c) OTHER RESPONSIBILITIES.—In addition to the  
18          functions specified in subsection (b), the Ombudsman  
19          shall—

20               “(1) monitor the coverage and geographic allo-  
21               cation of local offices of the Ombudsman, including  
22               appointing a local ombudsman for immigration re-  
23               lated concerns; and

1           “(2) evaluate and take personnel actions (in-  
2           cluding dismissal) with respect to any employee of  
3           the Ombudsman.

4           “(d) REQUEST FOR INVESTIGATIONS.—The Ombuds-  
5           man shall have the authority to request the Inspector Gen-  
6           eral of the Department of Homeland Security to conduct  
7           inspections, investigations, and audits.

8           “(e) COORDINATION WITH DEPARTMENT COMPO-  
9           NENTS.—The Director of U.S. Citizenship and Immigra-  
10          tion Services, the Assistant Secretary of Immigration and  
11          Customs Enforcement, and the Commissioner of Customs  
12          and Border Protection shall each establish procedures to  
13          provide formal responses to recommendations submitted  
14          to such official by the Ombudsman.

15          “(f) ANNUAL REPORTS.—Not later than June 30 of  
16          each year, the Ombudsman shall submit a report to the  
17          Committee on the Judiciary of the Senate and the Com-  
18          mittee on the Judiciary of the House of Representatives  
19          on the objectives of the Ombudsman for the fiscal year  
20          beginning in such calendar year. Each report shall contain  
21          full and substantive analysis, in addition to statistical in-  
22          formation, and shall set forth any recommendations the  
23          Ombudsman has made on improving the services and re-  
24          sponsiveness of U.S. Citizenship and Immigration Serv-  
25          ices, U.S. Immigration and Customs Enforcement, and

1 U.S. Customs and Border Protection and any responses  
2 received from the Department regarding such rec-  
3 ommendations.”.

4 (b) REPEAL OF SUPERSEDED AUTHORITY.—Section  
5 452 of the Homeland Security Act of 2002 (6 U.S.C. 272)  
6 is repealed.

7 (c) CLERICAL AMENDMENTS.—The table of contents  
8 for the Homeland Security Act of 2002 is amended—

9 (1) by inserting after the item relating to sec-  
10 tion 103 the following new item:

“Sec. 104. Ombudsman for Immigration Related Concerns.”; and

11 (2) by striking the item relating to section 452.

12 **SEC. 1115. PROTECTION OF FAMILY VALUES IN APPREHEN-**  
13 **SION PROGRAMS.**

14 (a) DEFINITIONS.—In this section:

15 (1) APPREHENDED INDIVIDUAL.—The term  
16 “apprehended individual” means an individual ap-  
17 prehended by personnel of the Department of Home-  
18 land Security or of a cooperating entity pursuant to  
19 a migration deterrence program carried out at a bor-  
20 der.

21 (2) BORDER.—The term “border” means an  
22 international border of the United States.

23 (3) CHILD.—Except as otherwise specifically  
24 provided, the term “child” has the meaning given to

1 the term in section 101(b)(1) of the Immigration  
2 and Nationality Act (8 U.S.C. 1101(b)(1)).

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

6 (5) MIGRATION DETERRENCE PROGRAM.—The  
7 term “migration deterrence program” means an ac-  
8 tion related to the repatriation or referral for pros-  
9 ecution of 1 or more apprehended individuals for a  
10 suspected or confirmed violation of the Immigration  
11 and Nationality Act (8 U.S.C. 1001 et seq.) by the  
12 Secretary or a cooperating entity.

13 (b) PROCEDURES FOR MIGRATION DETERRENCE  
14 PROGRAMS AT THE BORDER.—

15 (1) PROCEDURES.—In any migration deterrence  
16 program carried out at a border, the Secretary and  
17 cooperating entities shall for each apprehended indi-  
18 vidual—

19 (A) as soon as practicable after such indi-  
20 vidual is apprehended—

21 (i) inquire as to whether the appre-  
22 hended individual is—

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



1 (II) traveling with a spouse or  
2 child; and

3 (ii) ascertain whether repatriation of  
4 the apprehended individual presents any  
5 humanitarian concern or concern related to  
6 such individual's physical safety; and

7 (B) ensure that, with respect to a decision  
8 related to the repatriation or referral for pros-  
9 ecution of the apprehended individual, due con-  
10 sideration is given—

11 (i) to the best interests of such indi-  
12 vidual's child, if any;

13 (ii) to family unity whenever possible;  
14 and

15 (iii) to other public interest factors,  
16 including humanitarian concerns and con-  
17 cerns related to the apprehended individ-  
18 ual's physical safety.

19 (c) MANDATORY TRAINING.—The Secretary, in con-  
20 sultation with the Secretary of Health and Human Serv-  
21 ices, the Attorney General, the Secretary of State, and  
22 independent immigration, child welfare, family law, and  
23 human rights law experts, shall—

24 (1) develop and provide specialized training for  
25 all personnel of U.S. Customs and Border Protection

1 and cooperating entities who come into contact with  
2 apprehended individuals in all legal authorities, poli-  
3 cies, and procedures relevant to the preservation of  
4 a child's best interest, family unity, and other public  
5 interest factors, including those described in this  
6 Act; and

7 (2) require border enforcement personnel to un-  
8 dertake periodic and continuing training on best  
9 practices and changes in relevant legal authorities,  
10 policies, and procedures pertaining to the preserva-  
11 tion of a child's best interest, family unity, and other  
12 public interest factors, including those described in  
13 this Act.

14 (d) ANNUAL REPORT ON THE IMPACT OF MIGRATION  
15 DETERRENCE PROGRAMS AT THE BORDER.—

16 (1) REQUIREMENT FOR ANNUAL REPORT.—Not  
17 later than 1 year after the date of the enactment of  
18 this Act, and annually thereafter, the Secretary shall  
19 submit to Congress a report that describes the im-  
20 pact of migration deterrence programs on parents,  
21 legal guardians, primary caregivers of a child, indi-  
22 viduals traveling with a spouse or child, and individ-  
23 uals who present humanitarian considerations or  
24 concerns related to the individual's physical safety.

1           (2) CONTENTS.—Each report submitted under  
2       paragraph (1) shall include for the previous 1-year  
3       period an assessment of—

4           (A) the number of apprehended individuals  
5       removed, repatriated, or referred for prosecu-  
6       tion who are the parent, legal guardian, or pri-  
7       mary caregiver of a child who is a citizen of the  
8       United States;

9           (B) the number of occasions in which both  
10      parents, or the primary caretaker of such a  
11      child was removed, repatriated, or referred for  
12      prosecution as part of a migration deterrence  
13      program;

14          (C) the number of apprehended individuals  
15      traveling with close family members who are re-  
16      moved, repatriated, or referred for prosecution.

17          (D) the impact of migration deterrence  
18      programs on public interest factors, including  
19      humanitarian concerns and physical safety.

20      (e) REGULATIONS.—Not later than 120 days after  
21      the date of the enactment of this Act, the Secretary shall  
22      promulgate regulations to implement this section.

1 **SEC. 1116. OVERSIGHT OF POWER TO ENTER PRIVATE**  
2 **LAND AND STOP VEHICLES WITHOUT A WAR-**  
3 **RANT AT THE NORTHERN BORDER.**

4 (a) IN GENERAL.—Section 287(a) (8 U.S.C.  
5 1357(a)) is amended—

6 (1) in paragraph (5), by redesignating subpara-  
7 graphs (A) and (B) as clauses (i) and (ii), respec-  
8 tively;

9 (2) by redesignating paragraphs (1) through  
10 (3) as subparagraphs (A) through (C), respectively;

11 (3) by redesignating paragraphs (4) and (5) as  
12 subparagraphs (F) and (G), respectively;

13 (4) in the matter preceding subparagraph (A),  
14 as so redesignated—

15 (A) by inserting “(1)” before “Any offi-  
16 cer”;

17 (B) by striking “Service” and inserting  
18 “Department of Homeland Security”; and

19 (C) by striking “Attorney General” and in-  
20 serting “Secretary of Homeland Security”;

21 (5) in paragraph (1)(C), as so redesignated, by  
22 inserting the following at the beginning: “except as  
23 provided in subparagraphs (D) and (E),”;

24 (6) by inserting after paragraph (1)(C) the fol-  
25 lowing:

1           “(D) with respect to the Northern border, as  
2       defined in section 1101 of the Border Security, Eco-  
3       nomic Opportunity, and Immigration Enforcement  
4       Act, within a distance of 25 air miles from the  
5       Northern border, or such distance from the North-  
6       ern border as may be prescribed by the Secretary  
7       pursuant to paragraph (2) of this subsection, to  
8       board and search for aliens any vessel within the  
9       territorial waters of the United States and any rail-  
10      way car, aircraft, conveyance, or vehicle for the pur-  
11      pose of patrolling the border to prevent the illegal  
12      entry of aliens into the United States;

13           “(E) with respect to the Northern border, as  
14      defined in section 1101 of the Border Security, Eco-  
15      nomic Opportunity, and Immigration Enforcement  
16      Act, within a distance of 10 air miles from the  
17      Northern border, or such distance from the North-  
18      ern border as may be prescribed by the Secretary  
19      pursuant to paragraph (2) of this subsection, to  
20      have access to private lands, but not dwellings, for  
21      the purpose of patrolling the border to prevent the  
22      illegal entry of aliens into the United States;”;

23           (7) by inserting after the flush text at the end  
24      of subparagraph (F), as so redesignated, the fol-  
25      lowing:

1       “(2)(A)(i) The Secretary of Homeland Security may  
2 establish for a Northern border sector or district a dis-  
3 tance less than or greater than 25 air miles, but in no  
4 case greater than 100 air miles, as the maximum distance  
5 from the Northern border in which the authority described  
6 in paragraph (1)(C) may be exercised, if the Secretary cer-  
7 tifies that such a distance is necessary for the purpose  
8 of patrolling the Northern border to prevent the illegal  
9 entry of aliens into the United States, and justified by the  
10 considerations listed in subparagraph (B).

11       “(ii) The Secretary of Homeland Security may estab-  
12 lish for a Northern border sector or district a distance less  
13 than or greater than 10 air miles, but in no case greater  
14 than 25 air miles, as the maximum distance from the  
15 Northern border of the United States in which the author-  
16 ity described in paragraph (1)(D) may be exercised, if the  
17 Secretary certifies that such a distance is necessary for  
18 the purpose of patrolling the Northern border to prevent  
19 the illegal entry of aliens into the United States, and justi-  
20 fied by the considerations listed in subparagraph (B).

21       “(B) In making the certifications described in sub-  
22 paragraph (A), the Secretary shall consider, as appro-  
23 priate, land topography, confluence of arteries of transpor-  
24 tation leading from external boundaries, density of popu-  
25 lation, possible inconvenience to the traveling public, types

1 of conveyances used, reliable information as to movements  
2 of persons effecting illegal entry into the United States,  
3 effects on private property and quality of life for relevant  
4 communities and residents, consultations with affected  
5 State, local, and tribal governments, including the gov-  
6 ernor of any relevant State, and other factors that the Sec-  
7 retary considers appropriate.

8 “(C) A certification made under subparagraph (A)  
9 shall be valid for a period of 5 years and may be renewed  
10 for additional 5-year periods. If the Secretary finds at any  
11 time that circumstances no longer justify a certification,  
12 the Secretary shall terminate the certification.

13 “(D) The Secretary shall report annually to the Com-  
14 mittee on the Judiciary and Committee on Homeland Se-  
15 curity and Governmental Affairs of the Senate and the  
16 Committee on the Judiciary and Committee on Homeland  
17 Security of the House of Representatives the number of  
18 certifications made under subparagraph (A), and for each  
19 such certification, the Northern border sector or district  
20 and reasonable distance prescribed, the period of time the  
21 certification has been in effect, and the factors justifying  
22 the certification.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) AUTHORITIES WITHOUT A WARRANT.—In  
25 section 287(a) (8 U.S.C. 1357(a)), the undesignated

1 matter following paragraph (2), as added by sub-  
2 section (a)(5), is amended—

3 (A) by inserting “(3)” before “Under regu-  
4 lations”;

5 (B) by striking “paragraph (5)(B)” both  
6 places that term appears and inserting “sub-  
7 paragraph (F)(ii)”;

8 (C) by striking “(i)” and inserting “(A)”;

9 (D) by striking “(ii) establish” and insert-  
10 ing “(B) establish”;

11 (E) by striking “(iii) require” and insert-  
12 ing “(C) require”; and

13 (F) by striking “clause (ii), and (iv)” and  
14 inserting “subparagraph (B), and (D)”.

15 (2) CONFORMING AMENDMENT.—Section  
16 287(e) (8 U.S.C. 1357(e)) is amended by striking  
17 “paragraph (3) of subsection (a),” and inserting  
18 “subsection (a)(1)(D),”.

19 **SEC. 1117. REPORTS.**

20 (a) REPORT ON CERTAIN BORDER MATTERS.—The  
21 Secretary shall submit a report to the Committee on  
22 Homeland Security and Governmental Affairs of the Sen-  
23 ate, the Committee on Homeland Security of the House  
24 of Representatives, the Committee on the Judiciary of the



1 Senate, and the Committee on the Judiciary of the House  
2 of Representatives that sets forth—

3 (1) the effectiveness rate (as defined in section  
4 2(a)(4)) for each Border Patrol sector along the  
5 Northern border and the Southern border;

6 (2) the number of miles along the Southern  
7 border that are under persistent surveillance;

8 (3) the monthly wait times per passenger, in-  
9 cluding data on averages and peaks, for crossing the  
10 Northern border and the Southern border, and the  
11 staffing of such border crossings;

12 (4) the allocations at each port of entry along  
13 the Northern border and the Southern border; and

14 (5) the number of migrant deaths occurring  
15 near the Northern border and the Southern border  
16 and the efforts that have been undertaken to miti-  
17 gate such deaths.

18 (b) REPORT ON INTERAGENCY COLLABORATION.—  
19 The Under Secretary of Defense for Acquisition, Tech-  
20 nology, and Logistics and the Under Secretary of Home-  
21 land Security for Science and Technology shall jointly sub-  
22 mit a report on the results of the interagency collaboration  
23 under section 1109 to—

24 (1) the Committee on Armed Services of the  
25 Senate;

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

3           (3) the Committee on the Judiciary of the Sen-  
4       ate;

5           (4) the Committee on Armed Services of the  
6       House of Representatives;

7           (5) the Committee on Homeland Security of the  
8       House of Representatives; and

9           (6) the Committee on the Judiciary of the  
10      House of Representatives.

11 **SEC. 1118. SEVERABILITY AND DELEGATION.**

12       (a) SEVERABILITY.—If any provision of this Act or  
13 any amendment made by this Act, or any application of  
14 such provision or amendment to any person or cir-  
15 cumstance, is held to be unconstitutional, the remainder  
16 of the provisions of this Act and the amendments made  
17 by this Act and the application of the provision or amend-  
18 ment to any other person or circumstance shall not be af-  
19 fected.

20       (b) DELEGATION.—The Secretary may delegate any  
21 authority provided to the Secretary under this Act or an  
22 amendment made by this Act to the Secretary of Agri-  
23 culture, the Attorney General, the Secretary of Defense,  
24 the Secretary of Health and Human Services, the Sec-  
25 retary of State, or the Commissioner of Social Security.

1 **SEC. 1119. PROHIBITION ON NEW LAND BORDER CROSSING**

2 **FEES.**

3 (a) IN GENERAL.—Beginning on the date of the en-  
4 actment of this Act, the Secretary shall not—

5 (1) establish, collect, or otherwise impose any  
6 new border crossing fee on individuals crossing the  
7 Southern border or the Northern border at a land  
8 port of entry; or

9 (2) conduct any study relating to the imposition  
10 of a border crossing fee.

11 (b) BORDER CROSSING FEE DEFINED.—In this sec-  
12 tion, the term “border crossing fee” means a fee that  
13 every pedestrian, cyclist, and driver and passenger of a  
14 private motor vehicle is required to pay for the privilege  
15 of crossing the Southern border or the Northern border  
16 at a land port of entry.

17 **SEC. 1120. HUMAN TRAFFICKING REPORTING.**

18 (a) SHORT TITLE.—This section may be cited as the  
19 “Human Trafficking Reporting Act of 2013”.

20 (b) FINDINGS.—Congress finds the following:

21 (1) Human trafficking is a form of modern-day  
22 slavery.

23 (2) According to the Trafficking Victims Pro-  
24 tection Act of 2000 “severe forms of trafficking in  
25 persons” means—

1 (A) sex trafficking in which a commercial  
2 sex act is induced by force, fraud, or coercion,  
3 or in which the person induced to perform such  
4 act has not attained 18 years of age; or

5 (B) the recruitment, harboring, transpor-  
6 tation, provision, or obtaining of a person for  
7 labor or services, through the use of force,  
8 fraud, or coercion for the purpose of subjection  
9 to involuntary servitude, peonage, debt bondage,  
10 or slavery.

11 (3) There is an acute need for better data col-  
12 lection of incidents of human trafficking across the  
13 United States in order to effectively combat severe  
14 forms of trafficking in persons.

15 (4) The State Department's 2012 Trafficking  
16 in Persons report found that—

17 (A) the United States is a “source, transit  
18 and destination country for men, women, and  
19 children, subjected to forced labor, debt bond-  
20 age, domestic servitude and sex trafficking,”;  
21 and

22 (B) the United States needs to “improve  
23 data collection on human trafficking cases at  
24 the federal, state and local levels”.

1           (5) The International Organization for Migra-  
2           tion has reported that in order to effectively combat  
3           human trafficking there must be reliable and stand-  
4           ardized data, however, the following barriers for  
5           data collection exist:

6                   (A) The illicit and underground nature of  
7                   human trafficking.

8                   (B) The reluctance of victims to share in-  
9                   formation with authorities.

10                   (C) Insufficient human trafficking data  
11                   collection and research efforts by governments  
12                   worldwide.

13           (6) A 2009 report to the Department of Health  
14           and Human Services entitled Human Trafficking  
15           Into and Within the United States: A Review of the  
16           Literature found that “the data and methodologies  
17           for estimating the prevalence of human trafficking  
18           globally and nationally are not well developed, and  
19           therefore estimates have varied widely and changed  
20           significantly over time”.

21           (7) The Federal Bureau of Investigation com-  
22           piles national crime statistics through the Uniform  
23           Crime Reporting Program.

24           (8) Under current law, State and local govern-  
25           ments receiving Edward Byrne Memorial Justice As-

1       sistance grants are required to share data on part  
2       1 violent crimes with the Federal Bureau of Inves-  
3       tigation for inclusion in the Uniform Crime Report-  
4       ing Program.

5           (9) The addition of severe forms of trafficking  
6       in persons to the definition of part 1 violent crimes  
7       will ensure that statistics on this heinous crime will  
8       be compiled and available through the Federal Bu-  
9       reau of Investigation's Uniform Crime Report.

10       (c) HUMAN TRAFFICKING TO BE INCLUDED IN PART  
11   1 VIOLENT CRIMES FOR PURPOSES OF BYRNE GRANTS.—  
12   Section 505 of the Omnibus Crime Control and Safe  
13   Streets Act of 1968 (42 U.S.C. 3755) is amended by add-  
14   ing at the end the following new subsection:

15       “(i) PART 1 VIOLENT CRIMES TO INCLUDE HUMAN  
16   TRAFFICKING.—For purposes of this section, the term  
17   ‘part 1 violent crimes’ shall include severe forms of traf-  
18   ficking in persons, as defined in section 103(8) of the  
19   Trafficking Victims Protection Act of 2000 (22 U.S.C.  
20   7102(8)).”.

21   **SEC. 1121. RULE OF CONSTRUCTION.**

22       Nothing in this Act may be construed to authorize  
23   the deployment, procurement, or construction of fencing  
24   along the Northern border.

1 **SEC. 1122. LIMITATIONS ON DANGEROUS DEPORTATION**  
2 **PRACTICES.**

3 (a) CERTIFICATION REQUIRED.—

4 (1) IN GENERAL.—Not later than 1 year after  
5 the date of the enactment of this Act, and every 180  
6 days thereafter, the Secretary, except as provided in  
7 paragraph (2), shall submit written certification to  
8 Congress that the Department has only deported or  
9 otherwise removed a migrant from the United States  
10 through an entry or exit point on the Southern bor-  
11 der during daylight hours.

12 (2) EXCEPTION.—The certification required  
13 under paragraph (1) shall not apply to the deporta-  
14 tion or removal of a migrant otherwise described in  
15 that paragraph if—

16 (A) the manner of the deportation or re-  
17 moval is justified by a compelling governmental  
18 interest;

19 (B) the manner of the deportation or re-  
20 moval is in accordance with an applicable Local  
21 Arrangement for the Repatriation of Mexican  
22 Nationals entered into by the appropriate Mexi-  
23 can Consulate; or

24 (C) the migrant is not an unaccompanied  
25 minor and the migrant—

1 (i) is deported or removed through an  
2 entry or exit point in the same sector as  
3 the place where the migrant was appre-  
4 hended; or

5 (ii) agrees to be deported or removed  
6 in such manner after being notified of the  
7 intended manner of deportation or re-  
8 moval.

9 (b) ADDITIONAL INFORMATION REQUIRED.—Not  
10 later than 1 year after the date of the enactment of this  
11 Act, the Secretary shall submit to Congress a study of the  
12 Alien Transfer Exit Program, which shall include—

13 (1) the specific locations on the Southern bor-  
14 der where lateral repatriations have occurred during  
15 the 1-year period preceding the submission of the  
16 study;

17 (2) the performance measures developed by  
18 U.S. Customs and Border Protection to determine if  
19 the Alien Transfer Exit Program is deterring mi-  
20 grants from repeatedly crossing the border or other-  
21 wise reducing recidivism; and

22 (3) the consideration given, if any, to the rates  
23 of violent crime and the availability of infrastructure  
24 and social services in Mexico near such locations.



1 (c) PROHIBITION ON CONFISCATION OF PROP-  
2 ERTY.—Notwithstanding any other provision of law, law-  
3 ful, nonperishable belongings of a migrant that are con-  
4 fiscated by personnel operating under Federal authority  
5 shall be returned to the migrant before repatriation, to  
6 the extent practicable. (1)

7 **SEC. 1123. MAXIMUM ALLOWABLE COSTS OF SALARIES OF**  
8 **CONTRACTOR EMPLOYEES.**

9 Section 4304(a)(16) of title 41, United States Code,  
10 is amended by inserting before the period at the end the  
11 following: “, except that in the case of contracts with the  
12 Department of Homeland Security or the National Guard  
13 while operating in Federal status that relate to border se-  
14 curity, the limit on the costs of compensation of all execu-  
15 tives and employees of contractors is the annual amount  
16 payable under the aggregate limitation on pay as estab-  
17 lished by the Office of Management and Budget (currently  
18 \$230,700)”.  
19

20 **Subtitle B—Other Matters**

21 **SEC. 1201. REMOVAL OF NONIMMIGRANTS WHO OVERSTAY**  
22 **THEIR VISAS.**

23 (a) IN GENERAL.—Not later than 180 days after the  
24 date of the enactment of this Act, the Secretary shall ini-  
25 tiate removal proceedings, in accordance with chapter 4  
of title II of the Immigration and Nationality Act (8

1 U.S.C. 1221 et seq.), confirm that immigration relief or  
2 protection has been granted or is pending, or otherwise  
3 close 90 percent of the cases of nonimmigrants who—

4 (1) were admitted to the United States as non-  
5 immigrants after the date of the enactment of this  
6 Act; and

7 (2) during the most recent 12-month period,  
8 have entered the category of having exceeded their  
9 authorized period of admission by more than 180  
10 days.

11 (b) SEMIANNUAL REPORT.—Every 6 months after  
12 the date of the enactment of this Act, the Secretary shall  
13 submit a report to Congress that identifies—

14 (1) the total number of nonimmigrants who the  
15 Secretary has determined have exceeded their au-  
16 thorized period of admission by more than 180 days  
17 after the date of the enactment of this Act, cat-  
18 egorized by—

19 (A) the type of visa that authorized their  
20 entry into the United States;

21 (B) their country of origin; and

22 (C) the length of time since their visa ex-  
23 pired.

24 (2) an estimate of the total number of non-  
25 immigrants who are physically present in the United

1 States and have exceeded their authorized period of  
2 admission by more than 180 days after the date of  
3 the enactment of this Act;

4 (3) for the most recent 6-month and 12-month  
5 periods—

6 (A) the total number of removal pro-  
7 ceedings that were initiated against non-  
8 immigrants who were physically present in the  
9 United States more than 180 days after the ex-  
10 piration of the period for which they were law-  
11 fully admitted; and

12 (B) as a result of the removal proceedings  
13 described in paragraph (A)—

14 (i) the total number of removals pend-  
15 ing;

16 (ii) the total number of non-  
17 immigrants who were ordered to be re-  
18 moved from the United States;

19 (iii) the total number of non-  
20 immigrants whose removal proceedings  
21 were cancelled; and

22 (iv) the total number of non-  
23 immigrants who were granted immigration  
24 relief or protection in removal proceedings.

1 (c) ESTIMATED POPULATION.—Each report sub-  
2 mitted under subsection (b) shall include a comprehensive,  
3 detailed explanation of and justification for the method-  
4 ology used to estimate the population described in sub-  
5 section (a).

6 **SEC. 1202. VISA OVERSTAY NOTIFICATION PILOT PRO-**  
7 **GRAM.**

8 (a) ESTABLISHMENT OF PILOT PROGRAM.—Not  
9 later than 1 year after the date of enactment of this Act,  
10 the Secretary shall establish a pilot program to explore  
11 the feasibility and effectiveness of notifying individuals  
12 who have traveled to the United States from a foreign na-  
13 tion that the terms of their admission to the United States  
14 are about to expire, including individuals that entered with  
15 a visa or through the visa waiver program.

16 (b) REQUIREMENTS.—In establishing the pilot pro-  
17 gram required under subsection (a), the Secretary shall—

18 (1) provide for the collection of contact infor-  
19 mation, including telephone numbers and email ad-  
20 dresses, as appropriate, of individuals traveling to  
21 the United States from a foreign nation; and

22 (2) randomly select a pool of participants in  
23 order to form a statistically significant sample of  
24 people who travel to the United States each year to  
25 receive notification by telephone, email, or other

1 electronic means that the terms of their admission  
2 to the United States is about to expire.

3 (c) REPORT.—Not later than 1 year after the date  
4 on which the Secretary establishes the pilot program  
5 under subsection (a), the Secretary shall submit to Con-  
6 gress a report on whether the telephone or email notifica-  
7 tions have a statistically significant effect on reducing the  
8 rates of visa overstays in the United States.

9 **SEC. 1203. PREVENTING UNAUTHORIZED IMMIGRATION**  
10 **TRANSITING THROUGH MEXICO.**

11 (a) IN GENERAL.—The Secretary of State, in coordi-  
12 nation with the Secretary of Homeland Security, shall de-  
13 velop, in consultation with the relevant Committees of  
14 Congress, a strategy to address the unauthorized immigra-  
15 tion of individuals who transit through Mexico to the  
16 United States.

17 (b) REQUIREMENTS.—The strategy developed under  
18 subsection (a) shall include specific steps—

19 (1) to enhance the training, resources, and pro-  
20 fessionalism of border and law enforcement officials  
21 in Mexico, Honduras, El Salvador, Guatemala, and  
22 other countries, as appropriate; and

23 (2) to educate nationals of the countries de-  
24 scribed in paragraph (1) about the perils of the jour-  
25 ney to the United States, including how this Act will

1       increase the likelihood of apprehension, increase  
2       criminal penalties associated with illegal entry, and  
3       make finding employment in the United States more  
4       difficult.

5       (c) IMPLEMENTATION OF STRATEGY.—In carrying  
6 out the strategy developed under subsection (a)—

7           (1) the Secretary of Homeland Security, in con-  
8       junction with the Secretary of State, shall produce  
9       an educational campaign and disseminate informa-  
10      tion about the perils of the journey across Mexico,  
11      the likelihood of apprehension, and the difficulty of  
12      finding employment in the United States; and

13          (2) the Secretary of State, in coordination with  
14      the Secretary of Homeland Security, shall offer—

15           (A) training to border and law enforcement  
16      officials to enable these officials to operate more  
17      effectively, by using, to the greatest extent  
18      practicable, Department of Homeland Security  
19      personnel to conduct the training; and

20           (B) technical assistance and equipment to  
21      border officials, including computers, document  
22      readers, and other forms of technology that  
23      may be needed, as appropriate.

24      (d) AVAILABILITY OF FUNDS.—The Secretary of  
25 Homeland Security may use such sums as are necessary

1 from the Comprehensive Immigration Trust Fund estab-  
2 lished under section 6(a)(1) to carry out this section.

3       **TITLE II—IMMIGRANT VISAS**  
4       **Subtitle A—Registration and Ad-**  
5       **justment of Registered Provi-**  
6       **sional Immigrants**

7       **SEC. 2101. REGISTERED PROVISIONAL IMMIGRANT STATUS.**

8       (a) AUTHORIZATION.—Chapter 5 of title II (8 U.S.C.  
9 1255 et seq.) is amended by inserting after section 245A  
10 the following:

11       **“SEC. 245B. ADJUSTMENT OF STATUS OF ELIGIBLE EN-**  
12               **TRANS BEFORE DECEMBER 31, 2011, TO**  
13               **THAT OF REGISTERED PROVISIONAL IMMI-**  
14               **GRANT.**

15       “(a) IN GENERAL.—Notwithstanding any other pro-  
16 vision of law, the Secretary of Homeland Security (re-  
17 ferred to in this section and in sections 245C through  
18 245F as the ‘Secretary’), after conducting the national se-  
19 curity and law enforcement clearances required under sub-  
20 section (c)(8), may grant registered provisional immigrant  
21 status to an alien who—

22               “(1) meets the eligibility requirements set forth  
23       in subsection (b);

24               “(2) submits a completed application before the  
25       end of the period set forth in subsection (c)(3); and

1           “(3) has paid the fee required under subsection  
2           (c)(10)(A) and the penalty required under sub-  
3           section (c)(10)(C), if applicable.

4           “(b) ELIGIBILITY REQUIREMENTS.—

5           “(1) IN GENERAL.—An alien is not eligible for  
6           registered provisional immigrant status unless the  
7           alien establishes, by a preponderance of the evidence,  
8           that the alien meets the requirements set forth in  
9           this subsection.

10          “(2) PHYSICAL PRESENCE.—

11           “(A) IN GENERAL.—The alien—

12           “(i) shall be physically present in the  
13           United States on the date on which the  
14           alien submits an application for registered  
15           provisional immigrant status;

16           “(ii) shall have been physically  
17           present in the United States on or before  
18           December 31, 2011; and

19           “(iii) shall have maintained contin-  
20           uous physical presence in the United  
21           States from December 31, 2011, until the  
22           date on which the alien is granted status  
23           as a registered provisional immigrant  
24           under this section.

25          “(B) BREAK IN PHYSICAL PRESENCE.—



1                   “(i) IN GENERAL.—Except as pro-  
2                   vided in clause (ii), an alien who is absent  
3                   from the United States without authoriza-  
4                   tion after the date of the enactment of the  
5                   Border Security, Economic Opportunity,  
6                   and Immigration Modernization Act does  
7                   not meet the continuous physical presence  
8                   requirement set forth in subparagraph  
9                   (A)(iii).

10                   “(ii) EXCEPTION.—An alien who de-  
11                   parted from the United States after De-  
12                   cember 31, 2011, will not be considered to  
13                   have failed to maintain continuous pres-  
14                   ence in the United States if the alien’s ab-  
15                   sences from the United States are brief,  
16                   casual, and innocent whether or not such  
17                   absences were authorized by the Secretary.

18                   “(3) GROUNDS FOR INELIGIBILITY.—

19                   “(A) IN GENERAL.—Except as provided in  
20                   subparagraph (B), an alien is ineligible for reg-  
21                   istered provisional immigrant status if the Sec-  
22                   retary determines that the alien—

23                   “(i) has a conviction for—

24                   “(I) an offense classified as a fel-  
25                   ony in the convicting jurisdiction

1 (other than a State or local offense  
2 for which an essential element was the  
3 alien's immigration status, or a viola-  
4 tion of this Act);

5 “(II) an aggravated felony (as  
6 defined in section 101(a)(43) at the  
7 time of the conviction);

8 “(III) 3 or more misdemeanor of-  
9 fenses (other than minor traffic of-  
10 fenses or State or local offenses for  
11 which an essential element was the  
12 alien's immigration status, or viola-  
13 tions of this Act) if the alien was con-  
14 victed on different dates for each of  
15 the 3 offenses;

16 “(IV) any offense under foreign  
17 law, except for a purely political of-  
18 fense, which, if the offense had been  
19 committed in the United States,  
20 would render the alien inadmissible  
21 under section 212(a) (excluding the  
22 paragraphs set forth in clause (ii)) or  
23 removable under section 237(a), ex-  
24 cept as provided in paragraph (3) of  
25 section 237(a);

## 131

1 “(V) unlawful voting (as defined  
2 in section 237(a)(6));

3 “(ii) is inadmissible under section  
4 212(a), except that in determining an  
5 alien’s inadmissibility—

6 “(I) paragraphs (4), (5), (7), and  
7 (9)(B) of section 212(a) shall not  
8 apply;

9 “(II) subparagraphs (A), (C),  
10 (D), (F), and (G) of section 212(a)(6)  
11 and paragraphs (9)(C) and (10)(B) of  
12 section 212(a) shall not apply unless  
13 based on the act of unlawfully enter-  
14 ing the United States after the date  
15 of the enactment of the Border Secu-  
16 rity, Economic Opportunity, and Im-  
17 migration Modernization Act; and

18 “(III) paragraphs (6)(B) and  
19 (9)(A) of section 212(a) shall not  
20 apply unless the relevant conduct  
21 began on or after the date on which  
22 the alien files an application for reg-  
23 istered provisional immigrant status  
24 under this section;

1 “(iii) is an alien who the Secretary  
2 knows or has reasonable grounds to be-  
3 lieve, is engaged in or is likely to engage  
4 after entry in any terrorist activity (as de-  
5 fined in section 212(a)(3)(B)(iv)); or

6 “(iv) was, on April 16, 2013—

7 “(I) an alien lawfully admitted  
8 for permanent residence;

9 “(II) an alien admitted as a ref-  
10 ugee under section 207 or granted  
11 asylum under section 208; or

12 “(III) an alien who, according to  
13 the records of the Secretary or the  
14 Secretary of State, is lawfully present  
15 in the United States in any non-  
16 immigrant status (other than an alien  
17 considered to be a nonimmigrant sole-  
18 ly due to the application of section  
19 244(f)(4) or the amendment made by  
20 section 702 of the Consolidated Nat-  
21 ural Resources Act of 2008 (Public  
22 Law 110–229)), notwithstanding any  
23 unauthorized employment or other  
24 violation of nonimmigrant status.

25 “(B) WAIVER.—

“(i) IN GENERAL.—The Secretary may waive the application of subparagraph (A)(i)(III) or any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

14                                   “(ii) EXCEPTIONS.—The discretionary  
15                                   authority under clause (i) may not be used  
16                                   to waive—

“(I) subparagraph (B), (C),  
(D)(ii), (E), (G), (H), or (I) of section  
212(a)(2);

20 “(II) section 212(a)(3);

21 “(III) subparagraph (A), (C),  
22 (D), or (E) of section 212(a)(10); or

23 “(IV) with respect to misrepre-  
24 sentations relating to the application

1 for registered provisional immigrant  
2 status, section 212(a)(6)(C)(i).

3 “(C) CONVICTION EXPLAINED.—For pur-  
4 poses of this paragraph, the term ‘conviction’  
5 does not include a judgment that has been ex-  
6 punged, set aside, or the equivalent.

7 “(D) RULE OF CONSTRUCTION.—Nothing  
8 in this paragraph may be construed to require  
9 the Secretary to commence removal proceedings  
10 against an alien.

11 “(4) APPLICABILITY OF OTHER PROVISIONS.—  
12 Sections 208(d)(6) and 240B(d) shall not apply to  
13 any alien filing an application for registered provi-  
14 sional immigrant status under this section.

15 “(5) DEPENDENT SPOUSE AND CHILDREN.—

16 “(A) IN GENERAL.—Notwithstanding any  
17 other provision of law, the Secretary may clas-  
18 sify the spouse or child of a registered provi-  
19 sional immigrant as a registered provisional im-  
20 migrant dependent if the spouse or child—

21 “(i) was physically present in the  
22 United States on or before December 31,  
23 2012, and has maintained continuous pres-  
24 ence in the United States from that date  
25 until the date on which the registered pro-

1           visional immigrant is granted such status,  
2           with the exception of absences from the  
3           United States that are brief, casual, and  
4           innocent, whether or not such absences  
5           were authorized by the Secretary; and

6                   “(ii) meets all of the eligibility re-  
7                   quirements set forth in this subsection,  
8                   other than the requirements of clause (ii)  
9                   or (iii) of paragraph (2)(A).

10           “(B) EFFECT OF TERMINATION OF LEGAL  
11           RELATIONSHIP OR DOMESTIC VIOLENCE.—If  
12           the spousal or parental relationship between an  
13           alien who is granted registered provisional im-  
14           migrant status under this section and the  
15           alien’s spouse or child is terminated due to  
16           death or divorce or the spouse or child has been  
17           battered or subjected to extreme cruelty by the  
18           alien (regardless of whether the legal relation-  
19           ship terminates), the spouse or child may apply  
20           for classification as a registered provisional im-  
21           migrant.

22                   “(C) EFFECT OF DISQUALIFICATION OF  
23           PARENT.—Notwithstanding subsection (c)(3), if  
24           the application of a spouse or parent for reg-  
25           istered provisional immigrant status is termi-

1           nated or revoked, the husband, wife, or child of  
2           that spouse or parent shall be eligible to apply  
3           for registered provisional immigrant status  
4           independent of the parent or spouse.

5           “(c) APPLICATION PROCEDURES.—

6           “(1) IN GENERAL.—An alien, or the dependent  
7           spouse or child of such alien, who meets the eligi-  
8           bility requirements set forth in subsection (b) may  
9           apply for status as a registered provisional immi-  
10          grant or a registered provisional immigrant depend-  
11          ent, as applicable, by submitting a completed appli-  
12          cation form to the Secretary during the application  
13          period set forth in paragraph (3), in accordance with  
14          the final rule promulgated by the Secretary under  
15          the Border Security, Economic Opportunity, and  
16          Immigration Modernization Act. An applicant for  
17          registered provisional immigrant status shall be  
18          treated as an applicant for admission.

19          “(2) PAYMENT OF TAXES.—

20          “(A) IN GENERAL.—An alien may not file  
21          an application for registered provisional immi-  
22          grant status under paragraph (1) unless the ap-  
23          plicant has satisfied any applicable Federal tax  
24          liability.



1           “(B) DEFINITION OF APPLICABLE FED-  
2           ERAL TAX LIABILITY.—In this paragraph, the  
3           term ‘applicable Federal tax liability’ means all  
4           Federal income taxes assessed in accordance  
5           with section 6203 of the Internal Revenue Code  
6           of 1986.

7           “(C) DEMONSTRATION OF COMPLIANCE.—  
8           An applicant may demonstrate compliance with  
9           this paragraph by submitting appropriate docu-  
10          mentation, in accordance with regulations pro-  
11          mulgated by the Secretary, in consultation with  
12          the Secretary of the Treasury.

13          “(3) APPLICATION PERIOD.—

14               “(A) INITIAL PERIOD.—Except as provided  
15               in subparagraph (B), the Secretary may only  
16               accept applications for registered provisional  
17               immigrant status from aliens in the United  
18               States during the 1-year period beginning on  
19               the date on which the final rule is published in  
20               the Federal Register pursuant to paragraph  
21               (1).

22               “(B) EXTENSION.—If the Secretary deter-  
23               mines, during the initial period described in  
24               subparagraph (A), that additional time is re-  
25               quired to process applications for registered

1 provisional immigrant status or for other good  
2 cause, the Secretary may extend the period for  
3 accepting applications for such status for an  
4 additional 18 months.

5 “(4) APPLICATION FORM.—

6 “(A) REQUIRED INFORMATION.—

7 “(i) IN GENERAL.—The application  
8 form referred to in paragraph (1) shall col-  
9 lect such information as the Secretary de-  
10 termines to be necessary and appropriate,  
11 including, for the purpose of understanding  
12 immigration trends—

13 “(I) an explanation of how, when,  
14 and where the alien entered the  
15 United States;

16 “(II) the country in which the  
17 alien resided before entering the  
18 United States; and

19 “(III) other demographic infor-  
20 mation specified by the Secretary.

21 “(ii) PRIVACY PROTECTIONS.—Infor-  
22 mation described in subclauses (I) through  
23 (III) of clause (i), which shall be provided  
24 anonymously by the applicant on the appli-  
25 cation form referred to in paragraph (1),

1           shall be subject to the same confidentiality  
2           provisions as those set forth in section 9 of  
3           title 13, United States Code.

4           “(iii) REPORT.—The Secretary shall  
5           submit a report to Congress that contains  
6           a summary of the statistical data about  
7           immigration trends collected pursuant to  
8           clause (i).

9           “(B) FAMILY APPLICATION.—The Sec-  
10          retary shall establish a process through which  
11          an alien may submit a single application under  
12          this section on behalf of the alien, his or her  
13          spouse, and his or her children who are residing  
14          in the United States.

15          “(C) INTERVIEW.—The Secretary may  
16          interview applicants for registered provisional  
17          immigrant status under this section to deter-  
18          mine whether they meet the eligibility require-  
19          ments set forth in subsection (b).

20          “(5) ALIENS APPREHENDED BEFORE OR DUR-  
21          ING THE APPLICATION PERIOD.—If an alien who is  
22          apprehended during the period beginning on the  
23          date of the enactment of the Border Security, Eco-  
24          nomic Opportunity, and Immigration Modernization  
25          Act and the end of the application period described

1 in paragraph (3) appears prima facie eligible for  
2 registered provisional immigrant status, to the satis-  
3 faction of the Secretary, the Secretary—

4 “(A) shall provide the alien with a reason-  
5 able opportunity to file an application under  
6 this section during such application period; and

7 “(B) may not remove the individual until  
8 a final administrative determination is made on  
9 the application.

10 “(6) ELIGIBILITY AFTER DEPARTURE.—

11 “(A) IN GENERAL.—An alien who departed  
12 from the United States while subject to an  
13 order of exclusion, deportation, or removal, or  
14 pursuant to an order of voluntary departure  
15 and who is outside of the United States, or who  
16 has reentered the United States illegally after  
17 December 31, 2011 without receiving the Sec-  
18 retary’s consent to reapply for admission under  
19 section 212(a)(9), shall not be eligible to file an  
20 application for registered provisional immigrant  
21 status.

22 “(B) WAIVER.—The Secretary, in the Sec-  
23 retary’s sole and unreviewable discretion, sub-  
24 ject to subparagraph (D), may waive the appli-

1 cation of subparagraph (A) on behalf of an  
2 alien if the alien—

3 “(i) is the spouse or child of a United  
4 States citizen or lawful permanent resi-  
5 dent;

6 “(ii) is the parent of a child who is a  
7 United States citizen or lawful permanent  
8 resident;

9 “(iii) meets the requirements set forth  
10 in clauses (ii) and (iii) of section  
11 245D(b)(1)(A); or

12 “(iv) meets the requirements set forth  
13 in section 245D(b)(1)(A)(ii), is 16 years or  
14 older on the date on which the alien ap-  
15 plies for registered provisional immigrant  
16 status, and was physically present in the  
17 United States for an aggregate period of  
18 not less than 3 years during the 6-year pe-  
19 riod immediately preceding the date of the  
20 enactment of the Border Security, Eco-  
21 nomic Opportunity, and Immigration Mod-  
22 ernization Act.

23 “(C) ELIGIBILITY.—Subject to subpara-  
24 graph (D) and notwithstanding subsection  
25 (b)(2), section 241(a)(5), or a prior order of ex-

1           clusion, deportation, or removal, an alien de-  
2           scribed in subparagraph (B) who is otherwise  
3           eligible for registered provisional immigrant sta-  
4           tus may file an application for such status.

5           “(D) CRIME VICTIMS’ RIGHTS TO NOTICE  
6           AND CONSULTATION.—Prior to applying, or ex-  
7           ercising, any authority under this paragraph, or  
8           ruling upon an application allowed under sub-  
9           paragraph (C) the Secretary shall—

10           “(i) determine whether or not an alien  
11           described under subparagraph (B) or (C)  
12           has a conviction for any criminal offense;

13           “(ii) in consultation with the agency  
14           that prosecuted the criminal offense under  
15           clause (i), if the agency, in the sole discre-  
16           tion of the agency, is willing to cooperate  
17           with the Secretary, make all reasonable ef-  
18           forts to identify each victim of a crime for  
19           which an alien determined to be a criminal  
20           under clause (i) has a conviction;

21           “(iii) in consultation with the agency  
22           that prosecuted the criminal offense under  
23           clause (i), if the agency, in the sole discre-  
24           tion of the agency, is willing to cooperate  
25           with the Secretary, make all reasonable ef-

1           forts to provide each victim identified  
2           under clause (ii) with written notice that  
3           the alien is being considered for a waiver  
4           under this paragraph, specifying in such  
5           notice that the victim may—

6                     “(I) take no further action;

7                     “(II) request written notification  
8           by the Secretary of any subsequent  
9           application for waiver filed by the  
10          criminal alien under this paragraph  
11          and of the final determination of the  
12          Secretary regarding such application;  
13          or

14                    “(III) not later than 60 days  
15          after the date on which the victim re-  
16          ceives written notice under this clause,  
17          request a consultation with the Sec-  
18          retary relating to whether the applica-  
19          tion of the offender should be granted  
20          and if the victim cannot be located or  
21          if no response is received from the vic-  
22          tim within the designated time period,  
23          the Secretary shall proceed with adju-  
24          dication of the application; and

1                   “(iv) at the request of a victim under  
2                   clause (iii), consult with the victim to de-  
3                   termine whether or not the Secretary  
4                   should, in the case of an alien who is de-  
5                   termined under clause (i) to have a convic-  
6                   tion for any criminal offense, exercise waiv-  
7                   er authority for an alien described under  
8                   subparagraph (B), or grant the application  
9                   of an alien described under subparagraph  
10                  (C).

11                  “(E) CRIME VICTIMS’ RIGHT TO INTER-  
12                  VENTION.—In addition to the victim notifica-  
13                  tion and consultation provided for in subpara-  
14                  graph (D), the Secretary shall allow the victim  
15                  of a criminal alien described under subpara-  
16                  graph (B) or (C) to request consultation re-  
17                  garding, or notice of, any application for waiver  
18                  filed by the criminal alien under this paragraph,  
19                  including the final determination of the Sec-  
20                  retary regarding such application.

21                  “(F) CONFIDENTIALITY PROTECTIONS FOR  
22                  CRIME VICTIMS.—The Secretary and the Attor-  
23                  ney General may not make an adverse deter-  
24                  mination of admissibility or deportability of any  
25                  alien who is a victim and not lawfully present



1 in the United States based solely on informa-  
2 tion supplied or derived in the process of identi-  
3 fication, notification, or consultation under this  
4 paragraph.

5 “(G) REPORTS REQUIRED.—Not later than  
6 September 30 of each fiscal year in which the  
7 Secretary exercises authority under this para-  
8 graph to rule upon the application of a criminal  
9 offender allowed under subparagraph (C), the  
10 Secretary shall submit to the Committee on the  
11 Judiciary of the Senate and the Committee on  
12 the Judiciary of the House of Representatives a  
13 report detailing the execution of the victim  
14 identification and notification process required  
15 under subparagraph (D), which shall include—

16 “(i) the total number of criminal of-  
17 fenders who have filed an application  
18 under subparagraph (C) and the crimes  
19 committed by such offenders;

20 “(ii) the total number of criminal of-  
21 fenders whose application under subpara-  
22 graph (C) has been granted and the crimes  
23 committed by such offenders; and

24 “(iii) the total number of victims of  
25 criminal offenders under clause (ii) who

1                   were not provided with written notice of  
2                   the offender’s application and the crimes  
3                   committed against the victims.

4                   “(H) DEFINITION.—In this paragraph, the  
5                   term ‘victim’ has the meaning given the term in  
6                   section 503(e) of the Victims’ Rights and Res-  
7                   titution Act of 1990 (42 U.S.C. 10607(e)).

8                   “(7) SUSPENSION OF REMOVAL DURING APPLI-  
9                   CATION PERIOD.—

10                   “(A) PROTECTION FROM DETENTION OR  
11                   REMOVAL.—A registered provisional immigrant  
12                   may not be detained by the Secretary or re-  
13                   moved from the United States, unless—

14                   “(i) the Secretary determines that—

15                   “(I) such alien is, or has become,  
16                   ineligible for registered provisional im-  
17                   migrant status under subsection  
18                   (b)(3); or

19                   “(II) the alien’s registered provi-  
20                   sional immigrant status has been re-  
21                   voked under subsection (d)(2).

22                   “(B) ALIENS IN REMOVAL PRO-  
23                   CEEDINGS.—Notwithstanding any other provi-  
24                   sion of this Act—

1           “(i) if the Secretary determines that  
2           an alien, during the period beginning on  
3           the date of the enactment of this section  
4           and ending on the last day of the applica-  
5           tion period described in paragraph (3), is  
6           in removal, deportation, or exclusion pro-  
7           ceedings before the Executive Office for  
8           Immigration Review and is prima facie eli-  
9           gible for registered provisional immigrant  
10          status under this section—

11                 “(I) the Secretary shall provide  
12                 the alien with the opportunity to file  
13                 an application for such status; and

14                 “(II) upon motion by the Sec-  
15                 retary and with the consent of the  
16                 alien or upon motion by the alien, the  
17                 Executive Office for Immigration Re-  
18                 view shall—

19                         “(aa) terminate such pro-  
20                         ceedings without prejudice to fu-  
21                         ture proceedings on any basis;  
22                         and

23                         “(bb) provide the alien a  
24                         reasonable opportunity to apply  
25                         for such status; and

1                   “(ii) if the Executive Office for Immi-  
2                   gration Review determines that an alien,  
3                   during the period beginning on the date of  
4                   the enactment of this section and ending  
5                   on the last day of the application period  
6                   described in paragraph (3), is in removal,  
7                   deportation, or exclusion proceedings be-  
8                   fore the Executive Office for Immigration  
9                   Review and is prima facie eligible for reg-  
10                  istered provisional immigrant status under  
11                  this section—

12                   “(I) the Executive Office of Im-  
13                   migration Review shall notify the Sec-  
14                   retary of such determination; and

15                   “(II) if the Secretary does not  
16                   dispute the determination of prima  
17                   facie eligibility within 7 days after  
18                   such notification, the Executive Office  
19                   for Immigration Review, upon consent  
20                   of the alien, shall—

21                   “(aa) terminate such pro-  
22                   ceedings without prejudice to fu-  
23                   ture proceedings on any basis;  
24                   and

1 “(bb) permit the alien a rea-  
2 sonable opportunity to apply for  
3 such status.

4 “(C) TREATMENT OF CERTAIN ALIENS.—

5 “(i) IN GENERAL.—If an alien who  
6 meets the eligibility requirements set forth  
7 in subsection (b) is present in the United  
8 States and has been ordered excluded, de-  
9 ported, or removed, or ordered to depart  
10 voluntarily from the United States under  
11 any provision of this Act—

12 “(I) notwithstanding such order  
13 or section 241(a)(5), the alien may  
14 apply for registered provisional immi-  
15 grant status under this section; and

16 “(II) if the alien is granted such  
17 status, the alien shall file a motion to  
18 reopen the exclusion, deportation, re-  
19 moval, or voluntary departure order,  
20 which motion shall be granted unless  
21 1 or more of the grounds of ineligi-  
22 bility is established by clear and con-  
23 vincing evidence.

24 “(ii) LIMITATIONS ON MOTIONS TO  
25 REOPEN.—The limitations on motions to

1                   reopen set forth in section 240(c)(7) shall  
2                   not apply to motions filed under clause  
3                   (i)(II).

4                   “(D) PERIOD PENDING ADJUDICATION OF  
5                   APPLICATION.—

6                   “(i) IN GENERAL.—During the period  
7                   beginning on the date on which an alien  
8                   applies for registered provisional immi-  
9                   grant status under paragraph (1) and the  
10                  date on which the Secretary makes a final  
11                  decision regarding such application, the  
12                  alien—

13                  “(I) may receive advance parole  
14                  to reenter the United States if urgent  
15                  humanitarian circumstances compel  
16                  such travel;

17                  “(II) may not be detained by the  
18                  Secretary or removed from the United  
19                  States unless the Secretary makes a  
20                  prima facie determination that such  
21                  alien is, or has become, ineligible for  
22                  registered provisional immigrant sta-  
23                  tus under subsection (b)(3);

1 “(III) shall not be considered un-  
2 lawfully present for purposes of sec-  
3 tion 212(a)(9)(B); and

4 “(IV) shall not be considered an  
5 unauthorized alien (as defined in sec-  
6 tion 274A(h)(3)).

7 “(ii) EVIDENCE OF APPLICATION FIL-  
8 ING.—As soon as practicable after receiv-  
9 ing each application for registered provi-  
10 sional immigrant status, the Secretary  
11 shall provide the applicant with a docu-  
12 ment acknowledging the receipt of such ap-  
13 plication.

14 “(iii) CONTINUING EMPLOYMENT.—  
15 An employer who knows that an alien em-  
16 ployee is an applicant for registered provi-  
17 sional immigrant status or will apply for  
18 such status once the application period  
19 commences is not in violation of section  
20 274A(a)(2) if the employer continues to  
21 employ the alien pending the adjudication  
22 of the alien employee’s application.

23 “(iv) EFFECT OF DEPARTURE.—Sec-  
24 tion 101(g) shall not apply to an alien  
25 granted—

1 “(I) advance parole under clause  
2 (i)(I) to reenter the United States; or  
3 “(II) registered provisional immi-  
4 grant status.

5 “(8) SECURITY AND LAW ENFORCEMENT  
6 CLEARANCES.—

7 “(A) BIOMETRIC AND BIOGRAPHIC  
8 DATA.—The Secretary may not grant registered  
9 provisional immigrant status to an alien or an  
10 alien dependent spouse or child under this sec-  
11 tion unless such alien submits biometric and  
12 biographic data in accordance with procedures  
13 established by the Secretary.

14 “(B) ALTERNATIVE PROCEDURES.—The  
15 Secretary shall provide an alternative procedure  
16 for applicants who cannot provide the biometric  
17 data required under subparagraph (A) because  
18 of a physical impairment.

19 “(C) CLEARANCES.—

20 “(i) DATA COLLECTION.—The Sec-  
21 retary shall collect, from each alien apply-  
22 ing for status under this section, biometric,  
23 biographic, and other data that the Sec-  
24 retary determines to be appropriate—



1 “(I) to conduct national security  
2 and law enforcement clearances; and

3 “(II) to determine whether there  
4 are any national security or law en-  
5 forcement factors that would render  
6 an alien ineligible for such status.

7 “(ii) ADDITIONAL SECURITY SCREEN-  
8 ING.—The Secretary, in consultation with  
9 the Secretary of State and other inter-  
10 agency partners, shall conduct an addi-  
11 tional security screening upon determining,  
12 in the Secretary’s opinion based upon in-  
13 formation related to national security, that  
14 an alien or alien dependent spouse or child  
15 is or was a citizen or long-term resident of  
16 a region or country known to pose a  
17 threat, or that contains groups or organi-  
18 zations that pose a threat, to the national  
19 security of the United States.

20 “(iii) PREREQUISITE.—The required  
21 clearances and screenings described in  
22 clauses (i)(I) and (ii) shall be completed  
23 before the alien may be granted registered  
24 provisional immigrant status.

25 “(9) DURATION OF STATUS AND EXTENSION.—

1                   “(A) IN GENERAL.—The initial period of  
2                   authorized admission for a registered provi-  
3                   sional immigrant—

4                   “(i) shall remain valid for 6 years un-  
5                   less revoked pursuant to subsection (d)(2);  
6                   and

7                   “(ii) may be extended for additional  
8                   6-year terms if—

9                   “(I) the alien remains eligible for  
10                  registered provisional immigrant sta-  
11                  tus;

12                  “(II) the alien meets the employ-  
13                  ment requirements set forth in sub-  
14                  paragraph (B);

15                  “(III) the alien has successfully  
16                  passed background checks that are  
17                  equivalent to the background checks  
18                  described in section 245D(b)(1)(E);  
19                  and

20                  “(IV) such status was not re-  
21                  voked by the Secretary for any reason.

22                  “(B) EMPLOYMENT OR EDUCATION RE-  
23                  QUIREMENT.—Except as provided in subpara-  
24                  graphs (D) and (E) of section 245C(b)(3), an  
25                  alien may not be granted an extension of reg-

1           istered provisional immigrant status under this  
2           paragraph unless the alien establishes that,  
3           during the alien's period of status as a reg-  
4           istered provisional immigrant, the alien—

5                   “(i)(I)   was   regularly   employed  
6                   throughout the period of admission as a  
7                   registered provisional immigrant, allowing  
8                   for brief periods lasting not more than 60  
9                   days; and

10                   “(II) is not likely to become a public  
11                   charge (as determined under section  
12                   212(a)(4)); or

13                   “(ii) is able to demonstrate average  
14                   income or resources that are not less than  
15                   100 percent of the Federal poverty level  
16                   throughout the period of admission as a  
17                   registered provisional immigrant.

18                   “(C) PAYMENT OF TAXES.—An applicant  
19                   may not be granted an extension of registered  
20                   provisional immigrant status under subpara-  
21                   graph (A)(ii) unless the applicant has satisfied  
22                   any applicable Federal tax liability in accord-  
23                   ance with paragraph (2).

24                   “(10) FEES AND PENALTIES.—

25                   “(A) STANDARD PROCESSING FEE.—

1 “(i) IN GENERAL.—Aliens who are 16  
2 years of age or older and are applying for  
3 registered provisional immigrant status  
4 under paragraph (1), or for an extension  
5 of such status under paragraph (9)(A)(ii),  
6 shall pay a processing fee to the Depart-  
7 ment of Homeland Security in an amount  
8 determined by the Secretary.

9 “(ii) RECOVERY OF COSTS.—The  
10 processing fee authorized under clause (i)  
11 shall be set at a level that is sufficient to  
12 recover the full costs of processing the ap-  
13 plication, including any costs incurred—

14 “(I) to adjudicate the application;

15 “(II) to take and process bio-  
16 metrics;

17 “(III) to perform national secu-  
18 rity and criminal checks, including ad-  
19 judication;

20 “(IV) to prevent and investigate  
21 fraud; and

22 “(V) to administer the collection  
23 of such fee.

24 “(iii) AUTHORITY TO LIMIT FEES.—

25 The Secretary, by regulation, may—

1                   “(I) limit the maximum proc-  
2                   essing fee payable under this subpara-  
3                   graph by a family, including spouses  
4                   and unmarried children younger than  
5                   21 years of age; and

6                   “(II) exempt defined classes of  
7                   individuals, including individuals de-  
8                   scribed in section 245B(c)(13), from  
9                   the payment of the fee authorized  
10                  under clause (i).

11                  “(B) DEPOSIT AND USE OF PROCESSING  
12                  FEES.—Fees collected under subparagraph  
13                  (A)(i)—

14                   “(i) shall be deposited into the Immi-  
15                   gration Examinations Fee Account pursu-  
16                   ant to section 286(m); and

17                   “(ii) shall remain available until ex-  
18                   pended pursuant to section 286(n).

19                  “(C) PENALTY.—

20                   “(i) PAYMENT.—In addition to the  
21                   processing fee required under subpara-  
22                   graph (A), aliens not described in section  
23                   245D(b)(A)(ii) who are 21 years of age or  
24                   older and are filing an application under

1           this subsection shall pay a \$1,000 penalty  
2           to the Department of Homeland Security.

3           “(ii) INSTALLMENTS.—The Secretary  
4           shall establish a process for collecting pay-  
5           ments required under clause (i) that per-  
6           mits the penalty under that clause to be  
7           paid in periodic installments that shall be  
8           completed before the alien may be granted  
9           an extension of status under paragraph  
10          (9)(A)(ii).

11          “(iii) DEPOSIT.—Penalties collected  
12          pursuant to this subparagraph shall be de-  
13          posited into the Comprehensive Immigra-  
14          tion Reform Trust Fund established under  
15          section 6(a)(1) of the Border Security,  
16          Economic Opportunity, and Immigration  
17          Modernization Act.

18          “(11) ADJUDICATION.—

19               “(A) FAILURE TO SUBMIT SUFFICIENT  
20               EVIDENCE.—The Secretary shall deny an appli-  
21               cation submitted by an alien who fails to sub-  
22               mit—

23                       “(i) requested initial evidence, includ-  
24                       ing requested biometric data; or

1 “(ii) any requested additional evidence  
2 by the date required by the Secretary.

3 “(B) AMENDED APPLICATION.—An alien  
4 whose application for registered provisional im-  
5 migrant status is denied under subparagraph  
6 (A) may file an amended application for such  
7 status to the Secretary if the amended applica-  
8 tion—

9 “(i) is filed within the application pe-  
10 riod described in paragraph (3); and

11 “(ii) contains all the required informa-  
12 tion and fees that were missing from the  
13 initial application.

14 “(12) EVIDENCE OF REGISTERED PROVISIONAL  
15 IMMIGRANT STATUS.—

16 “(A) IN GENERAL.—The Secretary shall  
17 issue documentary evidence of registered provi-  
18 sional immigrant status to each alien whose ap-  
19 plication for such status has been approved.

20 “(B) DOCUMENTATION FEATURES.—Docu-  
21 mentary evidence provided under subparagraph  
22 (A)—

23 “(i) shall be machine-readable and  
24 tamper-resistant, and shall contain a  
25 digitized photograph;

1 “(ii) shall, during the alien’s author-  
2 ized period of admission, and any exten-  
3 sion of such authorized admission, serve as  
4 a valid travel and entry document for the  
5 purpose of applying for admission to the  
6 United States;

7 “(iii) may be accepted during the pe-  
8 riod of its validity by an employer as evi-  
9 dence of employment authorization and  
10 identity under section 274A(b)(1)(B);

11 “(iv) shall indicate that the alien is  
12 authorized to work in the United States  
13 for up to 3 years; and

14 “(v) shall include such other features  
15 and information as may be prescribed by  
16 the Secretary.

17 “(13) DACA RECIPIENTS.—Unless the Sec-  
18 retary determines that an alien who was granted De-  
19 ferred Action for Childhood Arrivals (referred to in  
20 this paragraph as ‘DACA’) pursuant to the Sec-  
21 retary’s memorandum of June 15, 2012, has en-  
22 gaged in conduct since the alien was granted DACA  
23 that would make the alien ineligible for registered  
24 provisional immigrant status, the Secretary may  
25 grant such status to the alien if renewed national se-



1       curity and law enforcement clearances have been  
2       completed on behalf of the alien.

3 “(d) TERMS AND CONDITIONS OF REGISTERED PRO-  
4 VISIONAL IMMIGRANT STATUS.—

5 “(1) CONDITIONS OF REGISTERED PROVISIONAL  
6 IMMIGRANT STATUS.—

7                   “(A) EMPLOYMENT.—Notwithstanding any  
8                   other provision of law, including section  
9                   241(a)(7), a registered provisional immigrant  
10                  shall be authorized to be employed in the  
11                  United States while in such status.

12                   “(B) TRAVEL OUTSIDE THE UNITED  
13                   STATES.—A registered provisional immigrant  
14                   may travel outside of the United States and  
15                   may be admitted, if otherwise admissible, upon  
16                   returning to the United States without having  
17                   to obtain a visa if—

18 “(i) the alien is in possession of—

19 “(I) valid, unexpired documen-  
20 tary evidence of registered provisional  
21 immigrant status that complies with  
22 subsection (c)(12); or

23 “(II) a travel document, duly ap-  
24 proved by the Secretary, that was  
25 issued to the alien after the alien’s

1 original documentary evidence was  
2 lost, stolen, or destroyed;

3 “(ii) the alien’s absence from the  
4 United States did not exceed 180 days, un-  
5 less the alien’s failure to timely return was  
6 due to extenuating circumstances beyond  
7 the alien’s control;

8 “(iii) the alien meets the requirements  
9 for an extension as described in subclauses  
10 (I) and (III) of paragraph (9)(A); and

11 “(iv) the alien establishes that the  
12 alien is not inadmissible under subpara-  
13 graph (A)(i), (A)(iii), (B), or (C) of section  
14 212(a)(3).

15 “(C) ADMISSION.—An alien granted reg-  
16 istered provisional immigrant status under this  
17 section shall be considered to have been admit-  
18 ted and lawfully present in the United States in  
19 such status as of the date on which the alien’s  
20 application was filed.

21 “(D) CLARIFICATION OF STATUS.—An  
22 alien granted registered provisional immigrant  
23 status—

24 “(i) is lawfully admitted to the United  
25 States; and

1 “(ii) may not be classified as a non-  
2 immigrant or as an alien who has been  
3 lawfully admitted for permanent residence.

4 “(2) REVOCATION.—

5 “(A) IN GENERAL.—The Secretary may re-  
6 voke the status of a registered provisional immi-  
7 grant at any time after providing appropriate  
8 notice to the alien, and after the exhaustion or  
9 waiver of all applicable administrative review  
10 procedures under section 245E(c), if the  
11 alien—

12 “(i) no longer meets the eligibility re-  
13 quirements set forth in subsection (b);

14 “(ii) knowingly used documentation  
15 issued under this section for an unlawful  
16 or fraudulent purpose;

17 “(iii) is convicted of fraudulently  
18 claiming or receiving a Federal means-test-  
19 ed benefit (as defined and implemented in  
20 section 403 of the Personal Responsibility  
21 and Work Opportunity Reconciliation Act  
22 of 1996 (8 U.S.C. 1613)) after being  
23 granted registered provisional immigrant  
24 status; or

1 “(iv) was absent from the United  
2 States—

3 “(I) for any single period longer  
4 than 180 days in violation of the re-  
5 quirements set forth in paragraph  
6 (1)(B)(ii); or

7 “(II) for more than 180 days in  
8 the aggregate during any calendar  
9 year, unless the alien’s failure to time-  
10 ly return was due to extenuating cir-  
11 cumstances beyond the alien’s control.

12 “(B) ADDITIONAL EVIDENCE.—In deter-  
13 mining whether to revoke an alien’s status  
14 under subparagraph (A), the Secretary may re-  
15 quire the alien—

16 “(i) to submit additional evidence; or

17 “(ii) to appear for an interview.

18 “(C) INVALIDATION OF DOCUMENTA-  
19 TION.—If an alien’s registered provisional im-  
20 migrant status is revoked under subparagraph  
21 (A), any documentation issued by the Secretary  
22 to such alien under subsection (c)(12) shall  
23 automatically be rendered invalid for any pur-  
24 pose except for departure from the United  
25 States.

1 “(3) INELIGIBILITY FOR PUBLIC BENEFITS.—

2 “(A) IN GENERAL.—An alien who has been  
3 granted registered provisional immigrant status  
4 under this section is not eligible for any Federal  
5 means-tested public benefit (as defined and im-  
6 plemented in section 403 of the Personal Re-  
7 sponsibility and Work Opportunity Reconcili-  
8 ation Act of 1996 (8 U.S.C. 1613)).

9 “(B) AUDITS.—The Secretary of Health  
10 and Human Services shall conduct regular au-  
11 dits to ensure that registered provisional immi-  
12 grants are not fraudulently receiving any of the  
13 benefits described in subparagraph (A).

14 “(4) TREATMENT OF REGISTERED PROVISIONAL  
15 IMMIGRANTS.—A noncitizen granted registered pro-  
16 visional immigrant status under this section shall be  
17 considered lawfully present in the United States for  
18 all purposes while such noncitizen remains in such  
19 status, except that the noncitizen—

20 “(A) is not entitled to the premium assist-  
21 ance tax credit authorized under section 36B of  
22 the Internal Revenue Code of 1986 for his or  
23 her coverage;

1 “(B) shall be subject to the rules applica-  
2 ble to individuals not lawfully present that are  
3 set forth in subsection (e) of such section;

4 “(C) shall be subject to the rules applicable  
5 to individuals not lawfully present that are set  
6 forth in section 1402(e) of the Patient Protec-  
7 tion and Affordable Care Act (42 U.S.C.  
8 18071); and

9 “(D) shall be subject to the rules applica-  
10 ble to individuals not lawfully present set forth  
11 in section 5000A(d)(3) of the Internal Revenue  
12 Code of 1986.

13 “(5) ASSIGNMENT OF SOCIAL SECURITY NUM-  
14 BER.—

15 “(A) IN GENERAL.—The Commissioner of  
16 Social Security, in coordination with the Sec-  
17 retary, shall implement a system to allow for  
18 the assignment of a Social Security number and  
19 the issuance of a Social Security card to each  
20 alien who has been granted registered provi-  
21 sional immigrant status under this section.

22 “(B) USE OF INFORMATION.—The Sec-  
23 retary shall provide the Commissioner of Social  
24 Security with information from the applications  
25 filed by aliens granted registered provisional im-

1           migrant status under this section and such  
2           other information as the Commissioner deter-  
3           mines to be necessary to assign a Social Secu-  
4           rity account number to such aliens. The Com-  
5           missioner may use information received from  
6           the Secretary under this subparagraph to as-  
7           sign Social Security account numbers to such  
8           aliens and to administer the programs of the  
9           Social Security Administration. The Commis-  
10          sioner may maintain, use, and disclose such in-  
11          formation only as permitted under section 552a  
12          of title 5, United States Code (commonly known  
13          as the Privacy Act of 1974) and other applica-  
14          ble Federal laws.

15          “(e) DISSEMINATION OF INFORMATION ON REG-  
16          ISTERED PROVISIONAL IMMIGRANT PROGRAM.—As soon  
17          as practicable after the date of the enactment of the Bor-  
18          der Security, Economic Opportunity, and Immigration  
19          Modernization Act, the Secretary, in cooperation with en-  
20          tities approved by the Secretary, and in accordance with  
21          a plan adopted by the Secretary, shall broadly dissemi-  
22          nate, in the most common languages spoken by aliens who  
23          would qualify for registered provisional immigrant status  
24          under this section, to television, radio, print, and social  
25          media to which such aliens would likely have access—

1 “(1) the procedures for applying for such sta-  
2 tus;

3 “(2) the terms and conditions of such status;  
4 and

5 “(3) the eligibility requirements for such sta-  
6 tus.”.

7 (b) ENLISTMENT IN THE ARMED FORCES.—Section  
8 504(b)(1) of title 10, United States Code, is amended by  
9 adding at the end the following:

10 “(D) An alien who has been granted registered  
11 provisional immigrant status under section 245B of  
12 the Immigration and Nationality Act.”.

13 **SEC. 2102. ADJUSTMENT OF STATUS OF REGISTERED PRO-**  
14 **VISIONAL IMMIGRANTS.**

15 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.  
16 1255 et seq.) is amended by inserting after section 245B,  
17 as added by section 2101 of this title, the following:

18 **“SEC. 245C. ADJUSTMENT OF STATUS OF REGISTERED PRO-**  
19 **VISIONAL IMMIGRANTS.**

20 “(a) IN GENERAL.—Subject to section 245E(d) and  
21 section 2302(c)(3) of the Border Security, Economic Op-  
22 portunity, and Immigration Modernization Act, the Sec-  
23 retary may adjust the status of a registered provisional  
24 immigrant to that of an alien lawfully admitted for perma-  
25 nent residence if the registered provisional immigrant sat-



1 isfies the eligibility requirements set forth in subsection  
2 (b).

3 “(b) ELIGIBILITY REQUIREMENTS.—

4 “(1) REGISTERED PROVISIONAL IMMIGRANT  
5 STATUS.—

6 “(A) IN GENERAL.—The alien was granted  
7 registered provisional immigrant status under  
8 section 245B and remains eligible for such sta-  
9 tus.

10 “(B) CONTINUOUS PHYSICAL PRESENCE.—

11 The alien establishes, to the satisfaction of the  
12 Secretary, that the alien was not continuously  
13 absent from the United States for more than  
14 180 days in any calendar year during the pe-  
15 riod of admission as a registered provisional im-  
16 migrant, unless the alien’s absence was due to  
17 extenuating circumstances beyond the alien’s  
18 control.

19 “(C) MAINTENANCE OF WAIVERS OF INAD-

20 MISSIBILITY.—The grounds of inadmissibility  
21 set forth in section 212(a) that were previously  
22 waived for the alien or made inapplicable under  
23 section 245B(b) shall not apply for purposes of  
24 the alien’s adjustment of status under this sec-  
25 tion.

1           “(D)   PENDING    REVOCATION    PRO-  
2           CEEDINGS.—If the Secretary has notified the  
3           applicant that the Secretary intends to revoke  
4           the applicant’s registered provisional immigrant  
5           status under section 245B(d)(2)(A), the Sec-  
6           retary may not approve an application for ad-  
7           justment of status under this section unless the  
8           Secretary makes a final determination not to  
9           revoke the applicant’s status.

10          “(2) PAYMENT OF TAXES.—

11               “(A) IN GENERAL.—An applicant may not  
12               file an application for adjustment of status  
13               under this section unless the applicant has sat-  
14               isfied any applicable Federal tax liability.

15               “(B) DEFINITION OF APPLICABLE FED-  
16               ERAL TAX LIABILITY.—In subparagraph (A),  
17               the term ‘applicable Federal tax liability’ means  
18               all Federal income taxes assessed in accordance  
19               with section 6203 of the Internal Revenue Code  
20               of 1986 since the date on which the applicant  
21               was authorized to work in the United States as  
22               a registered provisional immigrant under sec-  
23               tion 245B(a).

24               “(C) COMPLIANCE.—The applicant may  
25               demonstrate compliance with subparagraph (A)

1 by submitting such documentation as the Sec-  
2 retary, in consultation with the Secretary of the  
3 Treasury, may require by regulation.

4 “(3) EMPLOYMENT REQUIREMENT.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraphs (D) and (E), an alien applying  
7 for adjustment of status under this section shall  
8 establish that, during his or her period of status  
9 as a registered provisional immigrant, he or  
10 she—

11 “(i)(I) was regularly employed  
12 throughout the period of admission as a  
13 registered provisional immigrant, allowing  
14 for brief periods lasting not more than 60  
15 days; and

16 “(II) is not likely to become a public  
17 charge (as determined under section  
18 212(a)(4)); or

19 “(ii) can demonstrate average income  
20 or resources that are not less than 125  
21 percent of the Federal poverty level  
22 throughout the period of admission as a  
23 registered provisional immigrant.

24 “(B) EVIDENCE OF EMPLOYMENT.—

1                   “(i) DOCUMENTS.—An alien may sat-  
2                   isfy the employment requirement under  
3                   subparagraph (A)(i) by submitting, to the  
4                   Secretary, records that—

5                   “(I) establish, by the preponder-  
6                   ance of the evidence, compliance with  
7                   such employment requirement; and

8                   “(II) have been maintained by  
9                   the Social Security Administration,  
10                  the Internal Revenue Service, or any  
11                  other Federal, State, or local govern-  
12                  ment agency.

13                  “(ii) OTHER DOCUMENTS.—An alien  
14                  who is unable to submit the records de-  
15                  scribed in clause (i) may satisfy the em-  
16                  ployment or education requirement under  
17                  subparagraph (A) by submitting to the  
18                  Secretary at least 2 types of reliable docu-  
19                  ments not described in clause (i) that pro-  
20                  vide evidence of employment or education,  
21                  including—

22                         “(I) bank records;

23                         “(II) business records;

24                         “(III) employer records;

1 “(IV) records of a labor union,  
2 day labor center, or organization that  
3 assists workers in employment;

4 “(V) sworn affidavits from non-  
5 relatives who have direct knowledge of  
6 the alien’s work or education, that  
7 contain—

8 “(aa) the name, address,  
9 and telephone number of the affi-  
10 ant;

11 “(bb) the nature and dura-  
12 tion of the relationship between  
13 the affiant and the alien; and

14 “(cc) other verification or  
15 information;

16 “(VI) remittance records; and

17 “(VII) school records from insti-  
18 tutions described in subparagraph  
19 (D).

20 “(iii) ADDITIONAL DOCUMENTS AND  
21 RESTRICTIONS.—The Secretary may—

22 “(I) designate additional docu-  
23 ments that may be used to establish  
24 compliance with the requirement  
25 under subparagraph (A); and

1 “(II) set such terms and condi-  
2 tions on the use of affidavits as may  
3 be necessary to verify and confirm the  
4 identity of any affiant or to otherwise  
5 prevent fraudulent submissions.

6 “(C) SATISFACTION OF EMPLOYMENT RE-  
7 QUIREMENT.—An alien may not be required to  
8 satisfy the employment requirements under this  
9 section with a single employer.

10 “(D) EDUCATION PERMITTED.—An alien  
11 may satisfy the requirement under subpara-  
12 graph (A), in whole or in part, by providing evi-  
13 dence of full-time attendance at—

14 “(i) an institution of higher education  
15 (as defined in section 102(a) of the Higher  
16 Education Act of 1965 (20 U.S.C.  
17 1002(a)));

18 “(ii) a secondary school, including a  
19 public secondary school (as defined in sec-  
20 tion 9101 of the Elementary and Sec-  
21 ondary Education Act of 1965 (20 U.S.C.  
22 7801));

23 “(iii) an education, literacy, or career  
24 and technical training program (including  
25 vocational training) that is designed to

1 lead to placement in postsecondary edu-  
2 cation, job training, or employment  
3 through which the alien is working toward  
4 such placement; or

5 “(iv) an education program assisting  
6 students either in obtaining a high school  
7 equivalency diploma, certificate, or its rec-  
8 ognized equivalent under State law (includ-  
9 ing a certificate of completion, certificate  
10 of attendance, or alternate award), or in  
11 passing a General Educational Develop-  
12 ment exam or other equivalent State-au-  
13 thorized exam or completed other applica-  
14 ble State requirements for high school  
15 equivalency.

16 “(E) AUTHORIZATION OF EXCEPTIONS  
17 AND WAIVERS.—

18 “(i) EXCEPTIONS BASED ON AGE OR  
19 DISABILITY.—The employment and edu-  
20 cation requirements under this paragraph  
21 shall not apply to any alien who—

22 “(I) is younger than 21 years of  
23 age on the date on which the alien  
24 files an application for the first exten-  
25 sion of the initial period of authorized

1 admission as a registered provisional  
2 immigrant;

3 “(II) is at least 60 years of age  
4 on the date on which the alien files an  
5 application for an extension of reg-  
6 istered provisional immigrant status  
7 or at least 65 years of age on the date  
8 on which the alien’s application for  
9 adjustment of status is filed under  
10 this section; or

11 “(III) has a physical or mental  
12 disability (as defined in section 3(2)  
13 of the Americans with Disabilities Act  
14 of 1990 (42 U.S.C. 12102(2))) or as  
15 a result of pregnancy if such condition  
16 is evidenced by the submission of doc-  
17 umentation prescribed by the Sec-  
18 retary.

19 “(ii) FAMILY EXCEPTIONS.—The em-  
20 ployment and education requirements  
21 under this paragraph shall not apply to  
22 any alien who is a dependent registered  
23 provisional immigrant under subsection  
24 (b)(5).



1                   “(iii) TEMPORARY EXCEPTIONS.—The  
2                   employment and education requirements  
3                   under this paragraph shall not apply dur-  
4                   ing any period during which the alien—

5                   “(I) was on medical leave, mater-  
6                   nity leave, or other employment leave  
7                   authorized by Federal law, State law,  
8                   or the policy of the employer;

9                   “(II) is or was the primary care-  
10                  taker of a child or another person who  
11                  requires supervision or is unable to  
12                  care for himself or herself; or

13                  “(III) was unable to work due to  
14                  circumstances outside the control of  
15                  the alien.

16                  “(iv) WAIVER.—The Secretary may  
17                  waive the employment or education re-  
18                  quirements under this paragraph with re-  
19                  spect to any individual alien who dem-  
20                  onstrates extreme hardship to himself or  
21                  herself or to a spouse, parent, or child who  
22                  is a United States citizen or lawful perma-  
23                  nent resident.

24                  “(4) ENGLISH SKILLS.—

1           “(A) IN GENERAL.—Except as provided  
2           under subparagraph (C), a registered provi-  
3           sional immigrant who is 16 years of age or  
4           older shall establish that he or she—

5                   “(i) meets the requirements set forth  
6                   in section 312; or

7                   “(ii) is satisfactorily pursuing a  
8                   course of study, pursuant to standards es-  
9                   tablished by the Secretary of Education, in  
10                  consultation with the Secretary, to achieve  
11                  an understanding of English and knowl-  
12                  edge and understanding of the history and  
13                  Government of the United States, as de-  
14                  scribed in section 312(a).

15           “(B) RELATION TO NATURALIZATION EX-  
16           AMINATION.—A registered provisional immi-  
17           grant who demonstrates that he or she meets  
18           the requirements set forth in section 312 may  
19           be considered to have satisfied such require-  
20           ments for purposes of becoming naturalized as  
21           a citizen of the United States.

22           “(C) EXCEPTIONS.—

23                   “(i) MANDATORY.—Subparagraph (A)  
24                   shall not apply to any person who is unable  
25                   to comply with the requirements under

1           that subparagraph because of a physical or  
2           developmental disability or mental impair-  
3           ment.

4                   “(ii) DISCRETIONARY.—The Secretary  
5           may waive all or part of subparagraph (A)  
6           for a registered provisional immigrant who  
7           is 70 years of age or older on the date on  
8           which an application is filed for adjust-  
9           ment of status under this section.

10                   “(5) MILITARY SELECTIVE SERVICE.—The alien  
11          shall provide proof of registration under the Military  
12          Selective Service Act (50 U.S.C. App. 451 et seq.),  
13          if the alien is subject to such registration on or after  
14          the date on which the alien’s application for reg-  
15          istered provisional immigrant status is granted.

16                   “(c) APPLICATION PROCEDURES.—

17                   “(1) IN GENERAL.—Beginning on the date de-  
18          scribed in paragraph (2), a registered provisional im-  
19          migrant, or a registered provisional immigrant de-  
20          pendent, who meets the eligibility requirements set  
21          forth in subsection (b) may apply for adjustment of  
22          status to that of an alien lawfully admitted for per-  
23          manent residence by submitting an application to  
24          the Secretary that includes the evidence required, by

1 regulation, to demonstrate the applicant's eligibility  
2 for such adjustment.

3 “(2) BACK OF THE LINE.—The status of a reg-  
4 istered provisional immigrant may not be adjusted to  
5 that of an alien lawfully admitted for permanent res-  
6 idence under this section until after the Secretary of  
7 State certifies that immigrant visas have become  
8 available for all approved petitions for immigrant  
9 visas that were filed under sections 201 and 203 be-  
10 fore the date of the enactment of the Border Secu-  
11 rity, Economic Opportunity, and Immigration Mod-  
12 ernization Act.

13 “(3) INTERVIEW.—The Secretary may interview  
14 applicants for adjustment of status under this sec-  
15 tion to determine whether they meet the eligibility  
16 requirements set forth in subsection (b).

17 “(4) SECURITY AND LAW ENFORCEMENT  
18 CLEARANCES.—The Secretary may not adjust the  
19 status of a registered provisional immigrant under  
20 this section until renewed national security and law  
21 enforcement clearances have been completed with re-  
22 spect to the registered provisional immigrant, to the  
23 satisfaction of the Secretary.

24 “(5) FEES AND PENALTIES.—

25 “(A) PROCESSING FEES.—

1                   “(i) IN GENERAL.—The Secretary  
2                   shall impose a processing fee on applicants  
3                   for adjustment of status under this section  
4                   at a level sufficient to recover the full cost  
5                   of processing such applications, including  
6                   costs associated with—

7                               “(I) adjudicating the applica-  
8                               tions;

9                               “(II) taking and processing bio-  
10                              metrics;

11                             “(III) performing national secu-  
12                             rity and criminal checks, including ad-  
13                             judication;

14                             “(IV) preventing and inves-  
15                             tigating fraud; and

16                             “(V) the administration of the  
17                             fees collected.

18                   “(ii) AUTHORITY TO LIMIT FEES.—  
19                   The Secretary, by regulation, may—

20                               “(I) limit the maximum proc-  
21                               essing fee payable under this subpara-  
22                               graph by a family, including spouses  
23                               and children; and

1 “(II) exempt other defined class-  
2 es of individuals from the payment of  
3 the fee authorized under clause (i).

4 “(iii) DEPOSIT AND USE OF FEES.—  
5 Fees collected under this subparagraph—

6 “(I) shall be deposited into the  
7 Immigration Examinations Fee Ac-  
8 count pursuant to section 286(m);  
9 and

10 “(II) shall remain available until  
11 expended pursuant to section 286(n).

12 “(B) PENALTIES.—

13 “(i) IN GENERAL.—In addition to the  
14 processing fee required under subpara-  
15 graph (A) and the penalty required under  
16 section 245B(c)(6)(D), an alien who was  
17 21 years of age or older on the date on  
18 which the Border Security, Economic Op-  
19 portunity, and Immigration Modernization  
20 Act was originally introduced in the Senate  
21 and is filing an application for adjustment  
22 of status under this section shall pay a  
23 \$1,000 penalty to the Secretary unless the  
24 alien meets the requirements under section  
25 245D(b).

1                   “(ii) INSTALLMENTS.—The Secretary  
2                   shall establish a process for collecting pay-  
3                   ments required under clause (i) through  
4                   periodic installments.

5                   “(iii) DEPOSIT, ALLOCATION, AND  
6                   SPENDING OF PENALTIES.—Penalties col-  
7                   lected under this subparagraph—

8                   “(I) shall be deposited into the  
9                   Comprehensive Immigration Trust  
10                  Fund established under section  
11                  6(a)(1) of the Border Security, Eco-  
12                  nomic Opportunity, and Immigration  
13                  Modernization Act; and

14                  “(II) may be used for the pur-  
15                  poses set forth in section 6(a)(3)(B)  
16                  of such Act.”.

17           (b) LIMITATION ON REGISTERED PROVISIONAL IMMI-  
18   GRANTS.—An alien admitted as a registered provisional  
19   immigrant under section 245B of the Immigration and  
20   Nationality Act, as added by subsection (a), may only ad-  
21   just status to an alien lawfully admitted for permanent  
22   resident status under section 245C or 245D of such Act  
23   or section 2302.

24           (c) NATURALIZATION.—Section 319 (8 U.S.C. 1430)  
25   is amended—

1           (1) in the section heading, by striking “**AND**  
2           **EMPLOYEES OF CERTAIN NONPROFIT ORGANI-**  
3           **ZATIONS**” and inserting “**, EMPLOYEES OF CER-**  
4           **TAIN NONPROFIT ORGANIZATIONS, AND OTHER**  
5           **LONG-TERM LAWFUL RESIDENTS**”; and

6           (2) by adding at the end the following:

7           “(f) Any lawful permanent resident who was lawfully  
8           present in the United States and eligible for work author-  
9           ization for not less than 10 years before becoming a lawful  
10          permanent resident may be naturalized upon compliance  
11          with all the requirements under this title except the provi-  
12          sions of section 316(a)(1) if such person, immediately pre-  
13          ceding the date on which the person filed an application  
14          for naturalization—

15               “(1) has resided continuously within the United  
16          States, after being lawfully admitted for permanent  
17          residence, for at least 3 years;

18               “(2) during the 3-year period immediately pre-  
19          ceding such filing date, has been physically present  
20          in the United States for periods totaling at least 50  
21          percent of such period; and

22               “(3) has resided within the State or in the ju-  
23          risdiction of the U.S. Citizenship and Immigration  
24          Services field office in the United States in which



1 the applicant filed such application for at least 3  
2 months.”.

3 **SEC. 2103. THE DREAM ACT.**

4 (a) SHORT TITLE.—This section may be cited as the  
5 “Development, Relief, and Education for Alien Minors Act  
6 of 2013” or the “DREAM Act 2013”.

7 (b) ADJUSTMENT OF STATUS FOR CERTAIN ALIENS  
8 WHO ENTERED THE UNITED STATES AS CHILDREN.—  
9 Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended  
10 by inserting after section 245C, as added by section 2102  
11 of this title, the following:

12 **“SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS**  
13 **WHO ENTERED THE UNITED STATES AS CHIL-**  
14 **DREN.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) INSTITUTION OF HIGHER EDUCATION.—  
17 The term ‘institution of higher education’ has the  
18 meaning given such term in section 102 of the High-  
19 er Education Act of 1965 (20 U.S.C. 1002), except  
20 that the term does not include institutions described  
21 in subsection (a)(1)(C) of such section.

22 “(2) SECRETARY.—The term ‘Secretary’ means  
23 the Secretary of Homeland Security.

24 “(3) UNIFORMED SERVICES.—The term ‘Uni-  
25 formed Services’ has the meaning given the term

1       ‘uniformed services’ in section 101(a)(5) of title 10,  
2       United States Code.

3       “(b) ADJUSTMENT OF STATUS FOR CERTAIN ALIENS  
4 WHO ENTERED THE UNITED STATES AS CHILDREN.—

5       “(1) REQUIREMENTS.—

6               “(A) IN GENERAL.—The Secretary may  
7       adjust the status of a registered provisional im-  
8       migrant to the status of a lawful permanent  
9       resident if the immigrant demonstrates that he  
10      or she—

11               “(i) has been a registered provisional  
12      immigrant for at least 5 years;

13               “(ii) was younger than 16 years of  
14      age on the date on which the alien initially  
15      entered the United States;

16               “(iii) has earned a high school di-  
17      ploma, a commensurate alternative award  
18      from a public or private high school or sec-  
19      ondary school, or has obtained a general  
20      education development certificate recog-  
21      nized under State law, or a high school  
22      equivalency diploma in the United States;

23               “(iv)(I) has acquired a degree from an  
24      institution of higher education or has com-  
25      pleted at least 2 years, in good standing,

1 in a program for a bachelor's degree or  
2 higher degree in the United States; or

3 “(II) has served in the Uniformed  
4 Services for at least 4 years and, if dis-  
5 charged, received an honorable discharge;  
6 and

7 “(v) has provided a list of each sec-  
8 ondary school (as that term is defined in  
9 section 9101 of the Elementary and Sec-  
10 ondary Education Act of 1965 (20 U.S.C.  
11 7801)) that the alien attended in the  
12 United States.

13 “(B) HARDSHIP EXCEPTION.—

14 “(i) IN GENERAL.—The Secretary  
15 may adjust the status of a registered provi-  
16 sional immigrant to the status of a lawful  
17 permanent resident if the alien—

18 “(I) satisfies the requirements  
19 under clauses (i), (ii), (iii), and (v) of  
20 subparagraph (A); and

21 “(II) demonstrates compelling  
22 circumstances for the inability to sat-  
23 isfy the requirement under subpara-  
24 graph (A)(iv).

25 “(C) CITIZENSHIP REQUIREMENT.—

1                   “(i) IN GENERAL.—Except as pro-  
2                   vided in clause (ii), the Secretary may not  
3                   adjust the status of an alien to lawful per-  
4                   manent resident status under this section  
5                   unless the alien demonstrates that the  
6                   alien satisfies the requirements under sec-  
7                   tion 312(a).

8                   “(ii) EXCEPTION.—Clause (i) shall  
9                   not apply to an alien whose physical or de-  
10                  velopmental disability or mental impair-  
11                  ment prevents the alien from meeting the  
12                  requirements such section.

13                  “(D) SUBMISSION OF BIOMETRIC AND BIO-  
14                  GRAPHIC DATA.—The Secretary may not adjust  
15                  the status of an alien to lawful permanent resi-  
16                  dent status unless the alien—

17                         “(i) submits biometric and biographic  
18                         data, in accordance with procedures estab-  
19                         lished by the Secretary; or

20                         “(ii) complies with an alternative pro-  
21                         cedure prescribed by the Secretary, if the  
22                         alien is unable to provide such biometric  
23                         data because of a physical impairment.

24                         “(E) BACKGROUND CHECKS.—

1                   “(i) REQUIREMENT FOR BACKGROUND  
2                   CHECKS.—The Secretary shall utilize bio-  
3                   metric, biographic, and other data that the  
4                   Secretary determines appropriate—

5                   “(I) to conduct national security  
6                   and law enforcement background  
7                   checks of an alien applying for lawful  
8                   permanent resident status under this  
9                   section; and

10                  “(II) to determine whether there  
11                  is any criminal, national security, or  
12                  other factor that would render the  
13                  alien ineligible for such status.

14                  “(ii) COMPLETION OF BACKGROUND  
15                  CHECKS.—The Secretary may not adjust  
16                  an alien’s status to the status of a lawful  
17                  permanent resident under this subsection  
18                  until the national security and law enforce-  
19                  ment background checks required under  
20                  clause (i) have been completed with respect  
21                  to the alien, to the satisfaction of the Sec-  
22                  retary.

23                  “(2) APPLICATION FOR LAWFUL PERMANENT  
24                  RESIDENT STATUS.—

1           “(A) IN GENERAL.—A registered provi-  
2           sional immigrant seeking lawful permanent resi-  
3           dent status shall file an application for such  
4           status in such manner as the Secretary may re-  
5           quire.

6           “(B) ADJUDICATION.—

7                 “(i) IN GENERAL.—The Secretary  
8                 shall evaluate each application filed by a  
9                 registered provisional immigrant under this  
10                paragraph to determine whether the alien  
11                meets the requirements under paragraph  
12                (1).

13               “(ii) ADJUSTMENT OF STATUS IF FA-  
14               VORABLE DETERMINATION.—If the Sec-  
15               retary determines that the alien meets the  
16               requirements under paragraph (1), the  
17               Secretary shall notify the alien of such de-  
18               termination and adjust the status of the  
19               alien to lawful permanent resident status,  
20               effective as of the date of such determina-  
21               tion.

22               “(iii) ADVERSE DETERMINATION.—If  
23               the Secretary determines that the alien  
24               does not meet the requirements under

1 paragraph (1), the Secretary shall notify  
2 the alien of such determination.

3 “(C) DACA RECIPIENTS.—The Secretary  
4 may adopt streamlined procedures for appli-  
5 cants for adjustment to lawful permanent resi-  
6 dent status under this section who were granted  
7 Deferred Action for Childhood Arrivals pursu-  
8 ant to the Secretary’s memorandum of June  
9 15, 2012.

10 “(3) TREATMENT FOR PURPOSES OF NATU-  
11 RALIZATION.—

12 “(A) IN GENERAL.—An alien granted law-  
13 ful permanent resident status under this section  
14 shall be considered, for purposes of title III—

15 “(i) to have been lawfully admitted for  
16 permanent residence; and

17 “(ii) to have been in the United  
18 States as an alien lawfully admitted to the  
19 United States for permanent residence  
20 during the period the alien was a reg-  
21 istered provisional immigrant.

22 “(B) LIMITATION ON APPLICATION FOR  
23 NATURALIZATION.—An alien may not apply for  
24 naturalization while the alien is in registered  
25 provisional immigrant status, except for an

1 alien described in paragraph (1)(A)(ii) pursuant  
2 to section 328 or 329.”.

3 (c) EXEMPTION FROM NUMERICAL LIMITATIONS.—

4 Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended—

5 (1) by redesignating subparagraph (E) as sub-  
6 paragraph (F); and

7 (2) by inserting after subparagraph (D) the fol-  
8 lowing:

9 “(E) Aliens whose status is adjusted to perma-  
10 nent resident status under section 245C or 245D.”.

11 (d) RESTORATION OF STATE OPTION TO DETER-  
12 MINE RESIDENCY FOR PURPOSES OF HIGHER EDU-  
13 CATION.—

14 (1) REPEAL.—Section 505 of the Illegal Immi-  
15 gration Reform and Immigrant Responsibility Act of  
16 1996 (8 U.S.C. 1623) is repealed.

17 (2) EFFECTIVE DATE.—The repeal under para-  
18 graph (1) shall take effect as if included in the origi-  
19 nal enactment of the Illegal Immigration Reform  
20 and Immigrant Responsibility Act of 1996 (division  
21 C of Public Law 104–208).

22 (e) NATURALIZATION.—Section 328(a) (8 U.S.C.  
23 1439(a)) is amended by inserting “, without having been  
24 lawfully admitted to the United States for permanent resi-  
25 dent, and” after “naturalized”.



1 (f) LIMITATION ON FEDERAL STUDENT ASSIST-  
2 ANCE.—Notwithstanding any other provision of law, aliens  
3 granted registered provisional immigrant status and who  
4 initially entered the United States before reaching 16  
5 years of age and aliens granted blue card status shall be  
6 eligible only for the following assistance under title IV of  
7 the Higher Education Act of 1965 (20 U.S.C. 1070 et  
8 seq.):

9 (1) Student loans under parts D and E of such  
10 title IV (20 U.S.C. 1087a et seq. and 1087aa et  
11 seq.), subject to the requirements of such parts.

12 (2) Federal work-study programs under part C  
13 of such title IV (42 U.S.C. 2751 et seq.), subject to  
14 the requirements of such part.

15 (3) Services under such title IV (20 U.S.C.  
16 1070 et seq.), subject to the requirements for such  
17 services.

18 **SEC. 2104. ADDITIONAL REQUIREMENTS.**

19 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.  
20 1255 et seq.) is amended by inserting after section 245C,  
21 as added by section 2102 of this title, the following:

22 **“SEC. 245E. ADDITIONAL REQUIREMENTS RELATING TO**  
23 **REGISTERED PROVISIONAL IMMIGRANTS**  
24 **AND OTHERS.**

25 **“(a) DISCLOSURES.—**

1           “(1) PROHIBITED DISCLOSURES.—Except as  
2 otherwise provided in this subsection, no officer or  
3 employee of any Federal agency may—

4           “(A) use the information furnished in an  
5 application for lawful status under section  
6 245B, 245C, or 245D for any purpose other  
7 than to make a determination on any applica-  
8 tion by the alien for any immigration benefit or  
9 protection;

10           “(B) make any publication through which  
11 information furnished by any particular appli-  
12 cant can be identified; or

13           “(C) permit anyone other than the sworn  
14 officers, employees, and contractors of such  
15 agency or of another entity approved by the  
16 Secretary to examine any individual application  
17 for lawful status under section 245B, 245C, or  
18 245D.

19           “(2) REQUIRED DISCLOSURES.—The Secretary  
20 shall provide the information furnished in an appli-  
21 cation filed under section 245B, 245C, or 245D and  
22 any other information derived from such furnished  
23 information to—

24           “(A) a law enforcement agency, intel-  
25 ligence agency, national security agency, a com-

1           ponent of the Department of Homeland Secu-  
2           rity, court, or grand jury, consistent with law,  
3           in connection with—

4                   “(i) a criminal investigation or pros-  
5                   ecution of any felony not related to the ap-  
6                   plicant’s immigration status; or

7                   “(ii) a national security investigation  
8                   or prosecution; and

9                   “(B) an official coroner for purposes of af-  
10                  firmatively identifying a deceased individual,  
11                  whether or not the death of such individual re-  
12                  sulted from a crime.

13                  “(3) AUDITING AND EVALUATION OF INFORMA-  
14                  TION.—The Secretary may—

15                   “(A) audit and evaluate information fur-  
16                   nished as part of any application filed under  
17                   section 245B, 245C, or 245D for purposes of  
18                   identifying immigration fraud or fraud schemes;  
19                   and

20                   “(B) use any evidence detected by means  
21                   of audits and evaluations for purposes of inves-  
22                   tigating, prosecuting, referring for prosecution,  
23                   or denying or terminating immigration benefits.

24                  “(b) EMPLOYER PROTECTIONS.—

1           “(1) USE OF EMPLOYMENT RECORDS.—Copies  
2           of employment records or other evidence of employ-  
3           ment provided by an alien or by an alien’s employer  
4           in support of an alien’s application for registered  
5           provisional immigrant status under section 245B  
6           may not be used in a civil or criminal prosecution  
7           or investigation of that employer under section 274A  
8           or the Internal Revenue Code of 1986 for the prior  
9           unlawful employment of that alien regardless of the  
10          adjudication of such application or reconsideration  
11          by the Secretary of such alien’s prima facie eligi-  
12          bility determination. Employers that provide unau-  
13          thorized aliens with copies of employment records or  
14          other evidence of employment pursuant to an appli-  
15          cation for registered provisional immigrant status  
16          shall not be subject to civil and criminal liability  
17          pursuant to section 274A for employing such unau-  
18          thorized aliens.

19           “(2) LIMIT ON APPLICABILITY.—The protec-  
20          tions for employers and aliens under paragraph (1)  
21          shall not apply if the aliens or employers submit em-  
22          ployment records that are deemed to be fraudulent.

23          “(c) ADMINISTRATIVE REVIEW.—

24           “(1) EXCLUSIVE ADMINISTRATIVE REVIEW.—  
25          Administrative review of a determination respecting

1 an application for status under section 245B, 245C,  
2 245D, or 245F or section 2211 of the Agricultural  
3 Worker Program Act of 2013 shall be conducted  
4 solely in accordance with this subsection.

5 “(2) ADMINISTRATIVE APPELLATE REVIEW.—

6 “(A) ESTABLISHMENT OF ADMINISTRA-  
7 TIVE APPELLATE AUTHORITY.—The Secretary  
8 shall establish or designate an appellate author-  
9 ity to provide for a single level of administrative  
10 appellate review of a determination with respect  
11 to applications for, or revocation of, status  
12 under sections 245B, 245C, and 245D.

13 “(B) SINGLE APPEAL FOR EACH ADMINIS-  
14 TRATIVE DECISION.—

15 “(i) IN GENERAL.—An alien in the  
16 United States whose application for status  
17 under section 245B, 245C, or 245D has  
18 been denied or revoked may file with the  
19 Secretary not more than 1 appeal of each  
20 decision to deny or revoke such status.

21 “(ii) NOTICE OF APPEAL.—A notice of  
22 appeal filed under this subparagraph shall  
23 be filed not later than 90 days after the  
24 date of service of the decision of denial or

1                    revocation, unless the delay was reasonably  
2                    justifiable.

3                    “(C) REVIEW BY SECRETARY.—Nothing in  
4                    this paragraph may be construed to limit the  
5                    authority of the Secretary to certify appeals for  
6                    review and final administrative decision.

7                    “(D) DENIAL OF PETITIONS FOR DEPEND-  
8                    ENTS.—Appeals of a decision to deny or revoke  
9                    a petition filed by a registered provisional immi-  
10                   grant pursuant to regulations promulgated  
11                   under section 245B to classify a spouse or child  
12                   of such alien as a registered provisional immi-  
13                   grant shall be subject to the administrative ap-  
14                   pellate authority described in subparagraph (A).

15                   “(E) STAY OF REMOVAL.—Aliens seeking  
16                   administrative review shall not be removed from  
17                   the United States until a final decision is ren-  
18                   dered establishing ineligibility for status under  
19                   section 245B, 245C, or 245D.

20                   “(3) RECORD FOR REVIEW.—Administrative ap-  
21                   pellate review under paragraph (2) shall be de novo  
22                   and based solely upon—

23                   “(A) the administrative record established  
24                   at the time of the determination on the applica-  
25                   tion; and

1           “(B) any additional newly discovered or  
2           previously unavailable evidence.

3           “(4) UNLAWFUL PRESENCE.—During the pe-  
4           riod in which an alien may request administrative  
5           review under this subsection, and during the period  
6           that any such review is pending, the alien shall not  
7           be considered ‘unlawfully present in the United  
8           States’ for purposes of section 212(a)(9)(B).

9           “(d) PRIVACY AND CIVIL LIBERTIES.—

10           “(1) IN GENERAL.—The Secretary, in accord-  
11           ance with subsection (a)(1), shall require appro-  
12           priate administrative and physical safeguards to pro-  
13           tect the security, confidentiality, and integrity of  
14           personally identifiable information collected, main-  
15           tained, and disseminated pursuant to sections 245B,  
16           245C, and 245D.

17           “(2) ASSESSMENTS.—Notwithstanding the pri-  
18           vacy requirements set forth in section 222 of the  
19           Homeland Security Act (6 U.S.C. 142) and the E-  
20           Government Act of 2002 (Public Law 107–347), the  
21           Secretary shall conduct a privacy impact assessment  
22           and a civil liberties impact assessment of the legal-  
23           ization program established under sections 245B,  
24           245C, and 245D during the pendency of the interim  
25           final regulations required to be issued under section

1        2110 of the Border Security, Economic Opportunity,  
2        and Immigration Modernization Act.”.

3        (b) JUDICIAL REVIEW.—Section 242 (8 U.S.C. 1252)  
4 is amended—

5            (1) in subsection (a)(2)—

6                    (A) in subparagraph (B), by inserting “the  
7                    exercise of discretion arising under” after “no  
8                    court shall have jurisdiction to review”;

9                    (B) in subparagraph (D), by striking  
10                    “raised upon a petition for review filed with an  
11                    appropriate court of appeals in accordance with  
12                    this section”;

13            (2) in subsection (b)(2), by inserting “or, in the  
14            case of a decision rendered under section 245E(c),  
15            in the judicial circuit in which the petitioner resides”  
16            after “proceedings”; and

17            (3) by adding at the end the following:

18        “(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINA-  
19 TIONS RELATING TO STATUS UNDER CHAPTER 5.—

20            “(1) DIRECT REVIEW.—If an alien’s application  
21            under section 245B, 245C, 245D, or 245F or sec-  
22            tion 2211 of the Agricultural Worker Program Act  
23            of 2013 is denied, or is revoked after the exhaustion  
24            of administrative appellate review under section  
25            245E(c), the alien may seek review of such decision,



1 in accordance with chapter 7 of title 5, United  
2 States Code, before the United States district court  
3 for the district in which the person resides.

4 “(2) STATUS DURING REVIEW.—While a review  
5 described in paragraph (1) is pending—

6 “(A) the alien shall not be deemed to ac-  
7 crue unlawful presence for purposes of section  
8 212(a)(9);

9 “(B) any unexpired grant of voluntary de-  
10 parture under section 240B shall be tolled; and

11 “(C) the court shall have the discretion to  
12 stay the execution of any order of exclusion, de-  
13 portation, or removal.

14 “(3) REVIEW AFTER REMOVAL PRO-  
15 CEEDINGS.—An alien may seek judicial review of a  
16 denial or revocation of approval of the alien’s appli-  
17 cation under section 245B, 245C, or 245D in the  
18 appropriate United States court of appeal in con-  
19 junction with the judicial review of an order of re-  
20 moval, deportation, or exclusion if the validity of the  
21 denial has not been upheld in a prior judicial pro-  
22 ceeding under paragraph (1).

23 “(4) STANDARD FOR JUDICIAL REVIEW.—

24 “(A) BASIS.—Judicial review of a denial,  
25 or revocation of an approval, of an application

1 under section 245B, 245C, or 245D shall be  
2 based upon the administrative record estab-  
3 lished at the time of the review.

4 “(B) AUTHORITY TO REMAND.—The re-  
5 viewing court may remand a case under this  
6 subsection to the Secretary for consideration of  
7 additional evidence if the court finds that—

8 “(i) the additional evidence is mate-  
9 rial; and

10 “(ii) there were reasonable grounds  
11 for failure to adduce the additional evi-  
12 dence before the Secretary.

13 “(C) SCOPE OF REVIEW.—Notwithstanding  
14 any other provision of law, judicial review of all  
15 questions arising from a denial, or revocation of  
16 an approval, of an application under section  
17 245B, 245C, or 245D shall be governed by the  
18 standard of review set forth in section 706 of  
19 title 5, United States Code.

20 “(5) REMEDIAL POWERS.—

21 “(A) JURISDICTION.—Notwithstanding any  
22 other provision of law, the United States dis-  
23 trict courts shall have jurisdiction over any  
24 cause or claim arising from a pattern or prac-  
25 tice of the Secretary in the operation or imple-

1           mentation of the Border Security, Economic  
2           Opportunity, and Immigration Modernization  
3           Act, or the amendments made by such Act, that  
4           is arbitrary, capricious, or otherwise contrary to  
5           law.

6           “(B) SCOPE OF RELIEF.—The United  
7           States district courts may order any appro-  
8           priate relief in a clause or claim described in  
9           subparagraph (A) without regard to exhaustion,  
10          ripeness, or other standing requirements (other  
11          than constitutionally-mandated requirements),  
12          if the court determines that—

13               “(i) the resolution of such cause or  
14               claim will serve judicial and administrative  
15               efficiency; or

16               “(ii) a remedy would otherwise not be  
17               reasonably available or practicable.

18          “(6) CHALLENGES TO THE VALIDITY OF THE  
19          SYSTEM.—

20               “(A) IN GENERAL.—Except as provided in  
21               paragraph (5), any claim that section 245B,  
22               245C, 245D, or 245E or any regulation, writ-  
23               ten policy, or written directive, issued or un-  
24               written policy or practice initiated by or under  
25               the authority of the Secretary to implement

1           such sections, violates the Constitution of the  
2           United States or is otherwise in violation of law  
3           is available exclusively in an action instituted in  
4           United States District Court in accordance with  
5           the procedures prescribed in this paragraph.

6           “(B) SAVINGS PROVISION.—Except as pro-  
7           vided in subparagraph (C), nothing in subpara-  
8           graph (A) may be construed to preclude an ap-  
9           plicant under 245B, 245C, or 245D from as-  
10          serting that an action taken or a decision made  
11          by the Secretary with respect to the applicant’s  
12          status was contrary to law.

13          “(C) CLASS ACTIONS.—Any claim de-  
14          scribed in subparagraph (A) that is brought as  
15          a class action shall be brought in conformity  
16          with—

17                 “(i) the Class Action Fairness Act of  
18                 2005 (Public Law 109–2); and

19                 “(ii) the Federal Rules of Civil Proce-  
20                 dure.

21          “(D) PRECLUSIVE EFFECT.—The final dis-  
22          position of any claim brought under subpara-  
23          graph (A) shall be preclusive of any such claim  
24          asserted by the same individual in a subsequent  
25          proceeding under this subsection.

1                   “(E) EXHAUSTION AND STAY OF PRO-  
2                   CEEDINGS.—

3                   “(i) IN GENERAL.—No claim brought  
4                   under this paragraph shall require the  
5                   plaintiff to exhaust administrative rem-  
6                   edies under section 245E(c).

7                   “(ii) STAY AUTHORIZED.—Nothing in  
8                   this paragraph may be construed to pre-  
9                   vent the court from staying proceedings  
10                  under this paragraph to permit the Sec-  
11                  retary to evaluate an allegation of an un-  
12                  written policy or practice or to take correc-  
13                  tive action. In determining whether to  
14                  issue such a stay, the court shall take into  
15                  account any harm the stay may cause to  
16                  the claimant.”.

17                  (c) RULE OF CONSTRUCTION.—Section 244(h) of the  
18                  Immigration and Nationality Act (8 U.S.C. 1254a(h))  
19                  shall not limit the authority of the Secretary to adjust the  
20                  status of an alien under section 245C or 245D of the Im-  
21                  migration and Nationality Act, as added by this subtitle.

22                  (d) EFFECT OF FAILURE TO REGISTER ON ELIGI-  
23                  BILITY FOR IMMIGRATION BENEFITS.—Failure to comply  
24                  with section 264.1(f) of title 8, Code of Federal Regula-  
25                  tions or with removal orders or voluntary departure agree-

1 ments based on such section for acts committed before the  
2 date of the enactment of this Act shall not affect the eligi-  
3 bility of an alien to apply for a benefit under the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1101 et seq.).

5 (e) CLERICAL AMENDMENT.—The table of contents  
6 is amended by inserting after the item relating to section  
7 245A the following:

“Sec. 245B. Adjustment of status of eligible entrants before December 31,  
2011, to that of registered provisional immigrant.

“Sec. 245C. Adjustment of status of registered provisional immigrants.

“Sec. 245D. Adjustment of status for certain aliens who entered the United  
States as children.

“Sec. 245E. Additional requirements relating to registered provisional immi-  
grants and others.”.

## 8 **SEC. 2105. CRIMINAL PENALTY.**

9 (a) IN GENERAL.—Chapter 69 of title 18, United  
10 States Code, is amended by adding at the end the fol-  
11 lowing:

12 **“§ 1430. Improper use of information relating to reg-**  
13 **istered provisional immigrant applica-**  
14 **tions**

15 “Any person who knowingly uses, publishes, or per-  
16 mits information described in section 245E(a) of the Im-  
17 migration and Nationality Act to be examined in violation  
18 of such section shall be fined not more than \$10,000.”.

19 (b) DEPOSIT OF FINES.—All criminal penalties col-  
20 lected under section 1430 of title 18, United States Code,  
21 as added by subsection (a), shall be deposited into the

1 Comprehensive Immigration Reform Trust Fund estab-  
2 lished under section 6(a)(1).

3 (c) CLERICAL AMENDMENT.—The table of sections  
4 in chapter 69 of title 18, United States Code, is amended  
5 by adding at the end the following:

“1430. Improper use of information relating to registered provisional immigrant  
applications.”.

6 **SEC. 2106. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**  
7 **CANTS.**

8 (a) ESTABLISHMENT.—The Secretary may establish,  
9 within U.S. Citizenship and Immigration Services, a pro-  
10 gram to award grants, on a competitive basis, to eligible  
11 nonprofit organizations that will use the funding to assist  
12 eligible applicants under section 245B, 245C, 245D, or  
13 245F of the Immigration and Nationality Act or section  
14 2211 of this Act by providing them with the services de-  
15 scribed in subsection (c).

16 (b) ELIGIBLE NONPROFIT ORGANIZATION.—The  
17 term “eligible nonprofit organization” means a nonprofit,  
18 tax-exempt organization, including a community, faith-  
19 based or other immigrant-serving organization, whose  
20 staff has demonstrated qualifications, experience, and ex-  
21 pertise in providing quality services to immigrants, refu-  
22 gees, persons granted asylum, or persons applying for  
23 such statuses.

1       (c) USE OF FUNDS.—Grant funds awarded under  
2 this section may be used for the design and implementa-  
3 tion of programs that provide—

4           (1) information to the public regarding the eli-  
5 gibility and benefits of registered provisional immi-  
6 grant status authorized under section 245B of the  
7 Immigration and Nationality Act and blue card sta-  
8 tus authorized under section 2211, particularly to  
9 individuals potentially eligible for such status;

10          (2) assistance, within the scope of authorized  
11 practice of immigration law, to individuals submit-  
12 ting applications for registered provisional immi-  
13 grant status or blue card status, including—

14           (A) screening prospective applicants to as-  
15 sess their eligibility for such status;

16           (B) completing applications and petitions,  
17 including providing assistance in obtaining the  
18 requisite documents and supporting evidence;

19           (C) applying for any waivers for which ap-  
20 plicants and qualifying family members may be  
21 eligible; and

22           (D) providing any other assistance that the  
23 Secretary or grantees consider useful or nec-  
24 essary to apply for registered provisional immi-  
25 grant status or blue card status;



1           (3) assistance, within the scope of authorized  
2           practice of immigration law, to individuals seeking to  
3           adjust their status to that of an alien admitted for  
4           permanent residence under section 245C or 245F of  
5           the Immigration and Nationality Act; and

6           (4) assistance, within the scope of authorized  
7           practice of immigration law, and instruction, to indi-  
8           viduals—

9                   (A) on the rights and responsibilities of  
10           United States citizenship;

11                   (B) in civics and civics-based English as a  
12           second language; and

13                   (C) in applying for United States citizen-  
14           ship.

15           (d) SOURCE OF GRANT FUNDS.—

16                   (1) APPLICATION FEES.—The Secretary may  
17           use up to \$50,000,000 from the Comprehensive Im-  
18           migration Reform Trust Fund established under sec-  
19           tion 6(a)(1) to carry out this section.

20                   (2) AUTHORIZATION OF APPROPRIATIONS.—

21                   (A) AMOUNTS AUTHORIZED.—In addition  
22           to the amounts made available under paragraph  
23           (1), there are authorized to be appropriated  
24           such sums as may be necessary for each of the

1           fiscal years 2014 through 2018 to carry out  
2           this section.

3                   (B) AVAILABILITY.—Any amounts appro-  
4           priated pursuant to subparagraph (A) shall re-  
5           main available until expended.

6   **SEC. 2107. CONFORMING AMENDMENTS TO THE SOCIAL SE-**  
7                   **CURITY ACT.**

8           (a) CORRECTION OF SOCIAL SECURITY RECORDS.—

9                   (1) IN GENERAL.—Section 208(e)(1) of the So-  
10          cial Security Act (42 U.S.C. 408(e)(1)) is amend-  
11          ed—

12                   (A) in subparagraph (B)(ii), by striking  
13          “or” at the end;

14                   (B) in subparagraph (C), by striking the  
15          comma at the end and inserting a semicolon;

16                   (C) by inserting after subparagraph (C)  
17          the following:

18                   “(D) who is granted status as a registered  
19          provisional immigrant under section 245B or  
20          245D of the Immigration and Nationality Act;  
21          or

22                   “(E) whose status is adjusted to that of  
23          lawful permanent resident under section 245C  
24          of the Immigration and Nationality Act,”; and

1 (D) in the undesignated matter at the end,  
2 by inserting “, or in the case of an alien de-  
3 scribed in subparagraph (D) or (E), if such  
4 conduct is alleged to have occurred before the  
5 date on which the alien submitted an applica-  
6 tion under section 245B of such Act for classi-  
7 fication as a registered provisional immigrant”  
8 before the period at the end.

9 (2) EFFECTIVE DATE.—The amendments made  
10 by paragraph (1) shall take effect on the first day  
11 of the tenth month that begins after the date of the  
12 enactment of this Act.

13 (b) STATE DISCRETION REGARDING TERMINATION  
14 OF PARENTAL RIGHTS.—

15 (1) IN GENERAL.—A compelling reason for a  
16 State not to file (or to join in the filing of) a petition  
17 to terminate parental rights under section 475(5)(E)  
18 of the Social Security Act (42 U.S.C. 675(5)(E))  
19 shall include—

20 (A) the removal of the parent from the  
21 United States, unless the parent is unfit or un-  
22 willing to be a parent of the child; or

23 (B) the involvement of the parent in (in-  
24 cluding detention pursuant to) an immigration

1 proceeding, unless the parent is unfit or unwill-  
2 ing to be a parent of the child.

3 (2) CONDITIONS.—Before a State may file to  
4 terminate the parental rights under such section  
5 475(5)(E), the State (or the county or other political  
6 subdivision of the State, as applicable) shall make  
7 reasonable efforts—

8 (A) to identify, locate, and contact (includ-  
9 ing, if appropriate, through the diplomatic or  
10 consular offices of the country to which the par-  
11 ent was removed or in which a parent or rel-  
12 ative resides)—

13 (i) any parent of the child who is in  
14 immigration detention;

15 (ii) any parent of the child who has  
16 been removed from the United States; and

17 (iii) if possible, any potential adult  
18 relative of the child (as described in section  
19 471(a)(29));

20 (B) to notify such parent or relative of the  
21 intent of the State (or the county or other polit-  
22 ical subdivision of the State, as applicable) to  
23 file (or to join in the filing of) a petition re-  
24 ferred to in paragraph (1); or

1 (C) to reunify the child with any such par-  
2 ent or relative; and

3 (D) to provide and document appropriate  
4 services to the parent or relative.

5 (3) CONFORMING AMENDMENT.—Section  
6 475(5)(E)(ii) of the Social Security Act (42 U.S.C.  
7 675(5)(E)) is amended by inserting “, including the  
8 reason set forth in section 2107(b)(1) of the Border  
9 Security, Economic Opportunity, and Immigration  
10 Modernization Act” after “child”.

11 (c) CHILDREN SEPARATED FROM PARENTS AND  
12 CAREGIVERS.—

13 (1) STATE PLAN FOR FOSTER CARE AND ADOP-  
14 TION ASSISTANCE.—Section 471(a) of the Social Se-  
15 curity Act (42 U.S.C. 671(a)) is amended—

16 (A) by amending paragraph (19) to read  
17 as follows:

18 “(19) provides that the State shall give pref-  
19 erence to an adult relative over a nonrelated care-  
20 giver when determining a placement for a child if—

21 “(A) the relative caregiver meets all rel-  
22 evant State child protection standards; and

23 “(B) the standards referred to in subpara-  
24 graph (A) ensure that the immigration status  
25 alone of a parent, legal guardian, or relative

1           shall not disqualify the parent, legal guardian,  
2           or relative from being a placement for a child;”;  
3           and

4           (B) in paragraph (32), by striking “and”  
5           at the end;

6           (C) in paragraph (33), by striking the pe-  
7           riod at the end and inserting “; and”; and

8           (D) by adding at the end the following:

9           “(34) provides that the State shall—

10           “(A) ensure that the case manager for a  
11           separated child is capable of communicating in  
12           the native language of such child and of the  
13           family of such child, or an interpreter who is so  
14           capable is provided to communicate with such  
15           child and the family of such child at no cost to  
16           the child or to the family of such child;

17           “(B) coordinate with the Department of  
18           Homeland Security to ensure that parents who  
19           wish for their child to accompany them to their  
20           country of origin are given adequate time and  
21           assistance to obtain a passport and visa, and to  
22           collect all relevant vital documents, such as  
23           birth certificate, health, and educational records  
24           and other information;

1           “(C) coordinate with State agencies re-  
2           garding alternate documentation requirements  
3           for a criminal records check or a fingerprint-  
4           based check for a caregiver that does not have  
5           Federal or State-issued identification;

6           “(D) preserve, to the greatest extent prac-  
7           ticable, the privacy and confidentiality of all in-  
8           formation gathered in the course of admin-  
9           istering the care, custody, and placement of,  
10          and follow up services provided to, a separated  
11          child, consistent with the best interest of such  
12          child, by not disclosing such information to  
13          other government agencies or persons (other  
14          than a parent, legal guardian, or relative care-  
15          giver or such child), except that the head of the  
16          State agency (or the county or other political  
17          subdivision of the State, as applicable) may dis-  
18          close such information, after placing a written  
19          record of the disclosure in the file of the child—

20                 “(i) to a consular official for the pur-  
21                 pose of reunification of a child with a par-  
22                 ent, legal guardian, or relative caregiver  
23                 who has been removed or is involved in an  
24                 immigration proceeding, unless the child  
25                 has refused contact with, or the sharing of

1                   personal or identifying information with,  
2                   the government of his or her country of or-  
3                   igin;

4                   “(ii) when authorized to do so by the  
5                   child (if the child has attained 18 years of  
6                   age) if the disclosure is consistent with the  
7                   best interest of the child; or

8                   “(iii) to a law enforcement agency if  
9                   the disclosure would prevent imminent and  
10                  serious harm to another individual; and

11                  “(E) not less frequently than annually,  
12                  compile, update, and publish a list of entities in  
13                  the State that are qualified to provide legal rep-  
14                  resentation services for a separated child, in a  
15                  language such that a child can read and under-  
16                  stand.”.

17                  (2) ADDITIONAL INFORMATION TO BE IN-  
18                  CLUDED IN CASE PLAN.—Section 475 of such Act  
19                  (42 U.S.C. 675) is amended—

20                         (A) in paragraph (1), by adding at the end  
21                         the following:

22                         “(H) In the case of a separated child with  
23                         respect to whom the State plan requires the  
24                         State to provide services under section  
25                         471(a)(34)—



1 “(i) the location of the parent or legal  
2 guardian described in paragraph (9)(A)  
3 from whom the child has been separated;  
4 and

5 “(ii) a written record of each disclo-  
6 sure to a government agency or person  
7 (other than such a parent, legal guardian,  
8 or relative) of information gathered in the  
9 course of tracking the care, custody, and  
10 placement of, and follow-up services pro-  
11 vided to, the child.”; and

12 (B) by adding at the end the following:

13 “(9) The term ‘separated child’ means an indi-  
14 vidual who—

15 “(A) has a parent or legal guardian who  
16 has been—

17 “(i) detained by a Federal, State, or  
18 local law enforcement agency in the en-  
19 forcement of an immigration law; or

20 “(ii) removed from the United States  
21 as a result of a violation of such a law; and

22 “(B) is in foster care under the responsi-  
23 bility of a State.”.

24 (3) EFFECTIVE DATE.—The amendments made  
25 by this subsection shall take effect on the 1st day

1 of the 1st calendar quarter that begins after the 1-  
2 year period that begins on the date of the enactment  
3 of this Act.

4 (d) PRECLUSION OF SOCIAL SECURITY CREDITS FOR  
5 PERIODS WITHOUT WORK AUTHORIZATION.—

6 (1) INSURED STATUS.—Section 214 of the So-  
7 cial Security Act (42 U.S.C. 414) is amended by  
8 adding at the end the following new subsection:

9 “(d) INSURED STATUS.—

10 “(1) IN GENERAL.—Subject to paragraphs (2)  
11 and (3), for purposes of subsections (a) and (b), no  
12 quarter of coverage shall be credited for any cal-  
13 endar year—

14 “(A) beginning after December 31, 2003,  
15 and before January 1, 2014, with respect to an  
16 individual who has been granted registered pro-  
17 visional immigrant status pursuant to section  
18 245B of the Immigration and Nationality Act;  
19 or

20 “(B) in which an individual earned such  
21 quarter of coverage while present under an ex-  
22 pired nonimmigrant visa,  
23 unless the Commissioner of Social Security deter-  
24 mines, on the basis of information provided to the  
25 Commissioner by the individual, that the individual

1       was authorized to be employed in the United States  
2       during such quarter.

3           “(2) EXCEPTION.—Paragraph (1) shall not  
4       apply to an individual who was assigned a social se-  
5       curity account number before January 1, 2004.

6           “(3) ATTESTATION OF WORK AUTHORIZA-  
7       TION.—

8           “(A) IN GENERAL.—For purposes of para-  
9       graph (1), if an individual is unable to obtain  
10      or produce sufficient evidence or documentation  
11      that the individual was authorized to be em-  
12      ployed in the United States during a quarter,  
13      the individual may submit an attestation to the  
14      Commissioner of Social Security that the indi-  
15      vidual was authorized to be employed in the  
16      United States during such quarter and that  
17      sufficient evidence or documentation of such au-  
18      thorization cannot be obtained by the indi-  
19      vidual.

20          “(B) PENALTY.—Any individual who  
21      knowingly submits a false attestation described  
22      in subparagraph (A) shall be subject to the pen-  
23      alties under section 1041 of title 18, United  
24      States Code.”.

1           (2) BENEFIT COMPUTATION.—Section 215(e) of  
2       the Social Security Act (42 U.S.C. 415(e)) is  
3       amended—

4           (A) in paragraph (1), by striking “and” at  
5       the end;

6           (B) in paragraph (2), by striking the pe-  
7       riod at the end and inserting “; and”; and

8           (C) by adding at the end the following:

9           “(3) in computing the average indexed monthly  
10       earnings of an individual, there shall not be counted  
11       any wages or self-employment income for any year  
12       for which no quarter of coverage may be credited to  
13       such individual as a result of the application of sec-  
14       tion 214(d).”.

15       (3) CONFORMING AMENDMENT.—Section  
16       223(c)(1) of the Social Security Act (42 U.S.C.  
17       423(c)(1)) is amended in the flush matter at the end  
18       by inserting “the individual does not satisfy the cri-  
19       terion specified in section 214(d) or” after “part of  
20       any period if”.

21       (4) EFFECTIVE DATE.—The amendments made  
22       by this subsection shall apply to benefit applications  
23       filed on or after the date that is 180 days after the  
24       date of the enactment of this Act based on the  
25       wages or self-employment income of an individual

1 with respect to whom a primary insurance amount  
2 has not been determined under title II of the Social  
3 Security Act (42 U.S.C. 401 et seq.) before such  
4 date.

5 **SEC. 2108. GOVERNMENT CONTRACTING AND ACQUISITION**  
6 **OF REAL PROPERTY INTEREST.**

7 (a) EXEMPTION FROM GOVERNMENT CONTRACTING  
8 AND HIRING RULES.—

9 (1) IN GENERAL.—A determination by a Fed-  
10 eral agency to use a procurement competition ex-  
11 emption under section 253(c) of title 41, United  
12 States Code, or to use the authority granted in para-  
13 graph (2), for the purpose of implementing this title  
14 and the amendments made by this title is not sub-  
15 ject to challenge by protest to the Government Ac-  
16 countability Office under sections 3551 and 3556 of  
17 title 31, United States Code, or to the Court of Fed-  
18 eral Claims, under section 1491 of title 28, United  
19 States Code. An agency shall immediately advise the  
20 Congress of the exercise of the authority granted  
21 under this paragraph.

22 (2) GOVERNMENT CONTRACTING EXEMPTION.—  
23 The competition requirement under section 253(a)  
24 of title 41, United States Code, may be waived or  
25 modified by a Federal agency for any procurement

1       conducted to implement this title or the amendments  
2       made by this title if the senior procurement execu-  
3       tive for the agency conducting the procurement—

4               (A) determines that the waiver or modi-  
5       fication is necessary; and

6               (B) submits an explanation for such deter-  
7       mination to the Committee on Homeland Secu-  
8       rity and Governmental Affairs of the Senate  
9       and the Committee on Homeland Security of  
10      the House of Representatives.

11       (3)   HIRING   RULES   EXEMPTION.—Notwith-  
12      standing any other provision of law, the Secretary is  
13      authorized to make term, temporary limited, and  
14      part-time appointments of employees who will imple-  
15      ment this title and the amendments made by this  
16      title without regard to the number of such employ-  
17      ees, their ratio to permanent full-time employees,  
18      and the duration of their employment. Nothing in  
19      chapter 71 of title 5, United States Code, shall af-  
20      fect the authority of any Department management  
21      official to hire term, temporary limited or part-time  
22      employees under this paragraph.

23       (b)   AUTHORITY TO WAIVE ANNUITY LIMITATIONS.—  
24      Section 824(g)(2)(B) of the Foreign Service Act of 1980

1 (22 U.S.C. 4064(g)(2)(B)) is amended by striking “2009”  
2 and inserting “2017”.

3 (c) AUTHORITY TO ACQUIRE LEASEHOLDS.—Not-  
4 withstanding any other provision of law, the Secretary  
5 may acquire a leasehold interest in real property, and may  
6 provide in a lease entered into under this subsection for  
7 the construction or modification of any facility on the  
8 leased property, if the Secretary determines that the ac-  
9 quisition of such interest, and such construction or modi-  
10 fication, are necessary in order to facilitate the implemen-  
11 tation of this title and the amendments made by this title.

12 **SEC. 2109. LONG-TERM LEGAL RESIDENTS OF THE COM-**  
13 **MONWEALTH OF THE NORTHERN MARIANA**  
14 **ISLANDS.**

15 Section (6)(e) of the Joint Resolution entitled “A  
16 Joint Resolution to approve the ‘Covenant to Establish a  
17 Commonwealth of the Northern Mariana Islands in Polit-  
18 ical Union with the United States of America’, and for  
19 other purposes”, approved March 24, 1976 (48 U.S.C.  
20 1806(e)), as added by section 702 of the Consolidated  
21 Natural Resources Act of 2008 (Public Law 110–229; 122  
22 Stat. 854), is amended by adding at the end the following:

23 “(6) SPECIAL PROVISION REGARDING LONG-  
24 TERM RESIDENTS OF THE COMMONWEALTH.—

1 “(A) CNMI-ONLY RESIDENT STATUS.—

2 Notwithstanding paragraph (1), an alien de-  
3 scribed in subparagraph (B) may, upon the ap-  
4 plication of the alien, be admitted as an immi-  
5 grant to the Commonwealth subject to the fol-  
6 lowing rules:

7 “(i) The alien shall be treated as an  
8 immigrant lawfully admitted for permanent  
9 residence in the Commonwealth only, in-  
10 cluding permitting entry to and exit from  
11 the Commonwealth, until the earlier of the  
12 date on which—

13 “(I) the alien ceases to perma-  
14 nently reside in the Commonwealth;  
15 or

16 “(II) the alien’s status is ad-  
17 justed under this paragraph or section  
18 245 of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1255) to that of  
20 an alien lawfully admitted for perma-  
21 nent residence in accordance with all  
22 applicable eligibility requirements.

23 “(ii) The Secretary of Homeland Se-  
24 curity shall establish a process for such  
25 aliens to apply for CNMI-only permanent



1           resident status during the 90-day period  
2           beginning on the first day of the sixth  
3           month after the date of the enactment of  
4           this paragraph.

5           “(iii) Nothing in this subparagraph  
6           may be construed to provide any alien  
7           granted status under this subparagraph  
8           with public assistance to which the alien is  
9           not otherwise entitled.

10          “(B) ALIENS DESCRIBED.—An alien is de-  
11          scribed in this subparagraph if the alien—

12               “(i) is lawfully present in the Com-  
13               monwealth under the immigration laws of  
14               the United States;

15               “(ii) is otherwise admissible to the  
16               United States under the Immigration and  
17               Nationality Act (8 U.S.C. 1101 et seq.);

18               “(iii) resided continuously and law-  
19               fully in the Commonwealth from November  
20               28, 2009, through the date of the enact-  
21               ment of this paragraph;

22               “(iv) is not a citizen of the Republic  
23               of the Marshall Islands, the Federated  
24               States of Micronesia, or the Republic of  
25               Palau; and

1                   “(v)(I) was born in the Northern  
2 Mariana Islands between January 1, 1974  
3 and January 9, 1978;

4                   “(II) was, on May 8, 2008, and con-  
5 tinues to be as of the date of the enact-  
6 ment of this paragraph, a permanent resi-  
7 dent (as defined in section 4303 of title 3  
8 of the Northern Mariana Islands Common-  
9 wealth Code, in effect on May 8, 2008);

10                   “(III) is the spouse or child (as de-  
11 fined in section 101(b)(1) of the Immigra-  
12 tion and Nationality Act (8 U.S.C.  
13 1101(b)(1))), of an alien described in sub-  
14 clauses (I) or (II);

15                   “(IV) was, on May 8, 2008, an imme-  
16 diate relative (as defined in section 4303 of  
17 title 3 of the Northern Mariana Islands  
18 Commonwealth Code, in effect on May 8,  
19 2008, of a United States citizen, notwith-  
20 standing the age of the United States cit-  
21 izen, and continues to be such an imme-  
22 diate relative on the date of the application  
23 described in subparagraph (A);

24                   “(V) resided in the Northern Mariana  
25 Islands as a guest worker under Common-

1           wealth immigration law for at least 5 years  
2           before May 8, 2008 and is presently resi-  
3           dent under CW-1 status; or

4           “(VI) is the spouse or child (as de-  
5           fined in section 101(b)(1) of the Immigra-  
6           tion and Nationality Act (8 U.S.C.  
7           1101(b)(1))), of the alien guest worker de-  
8           scribed in subclause (V) and is presently  
9           resident under CW-2 status.

10          “(C) ADJUSTMENT FOR LONG TERM AND  
11          PERMANENT RESIDENTS.—Beginning on the  
12          date that is 5 years after the date of the enact-  
13          ment of the Border Security, Economic Oppor-  
14          tunity, and Immigration Modernization Act, an  
15          alien described in subparagraph (B) may apply  
16          to receive an immigrant visa or to adjust his or  
17          her status to that of an alien lawfully admitted  
18          for permanent residence.”.

19   **SEC. 2110. RULEMAKING.**

20          (a) IN GENERAL.—Not later than 1 year after the  
21          date of the enactment of this Act, the Secretary, the Attor-  
22          ney General, and the Secretary of State separately shall  
23          issue interim final regulations to implement this subtitle  
24          and the amendments made by this subtitle, which shall

1 take effect immediately upon publication in the Federal  
2 Register.

3 (b) APPLICATION PROCEDURES; PROCESSING FEES;  
4 DOCUMENTATION.—The interim final regulations issued  
5 under subsection (a) shall include—

6 (1) the procedures by which an alien, and the  
7 dependent spouse and children of such alien may  
8 apply for status under section 245B of the Immigra-  
9 tion and Nationality Act, as added by section 2101  
10 of this Act, as a registered provisional immigrant or  
11 a registered provisional immigrant dependent, as ap-  
12 plicable, including the evidence required to dem-  
13 onstrate eligibility for such status or to be included  
14 in each application for such status;

15 (2) the criteria to be used by the Secretary to  
16 determine—

17 (A) the maximum processing fee payable  
18 under sections 245B(c)(10)(B) and  
19 245C(c)(5)(A) of such Act by a family, includ-  
20 ing spouses and unmarried children younger  
21 than 21 years of age; and

22 (B) which individuals will be exempt from  
23 such fees;

1           (3) the documentation required to be submitted  
2       by the applicant to demonstrate compliance with sec-  
3       tion 245C(b)(3) of such Act; and

4           (4) the procedures for a registered provisional  
5       immigrant to apply for adjustment of status under  
6       section 245C or 245D of such Act, including the evi-  
7       dence required to be submitted with such application  
8       to demonstrate the applicant's eligibility for such ad-  
9       justment.

10       (c) EXEMPTION FROM NATIONAL ENVIRONMENTAL  
11   POLICY ACT.—Any decision by the Secretary concerning  
12   any rulemaking action, plan, or program described in this  
13   section shall not be considered to be a major Federal ac-  
14   tion subject to review under the National Environmental  
15   Policy Act of 1969 (42 U.S.C. 4321 et seq.).

16   **SEC. 2111. STATUTORY CONSTRUCTION.**

17       Except as specifically provided, nothing in this sub-  
18   title, or any amendment made by this subtitle, may be con-  
19   strued to create any substantive or procedural right or  
20   benefit that is legally enforceable by any party against the  
21   United States or its agencies or officers or any other per-  
22   son.

1     **Subtitle B—Agricultural Worker**  
2                     **Program**

3     **SEC. 2201. SHORT TITLE.**

4         This subtitle may be cited as the “Agricultural Work-  
5     er Program Act of 2013”.

6     **SEC. 2202. DEFINITIONS.**

7         In this subtitle:

8             (1) **BLUE CARD STATUS.**—The term “blue card  
9         status” means the status of an alien who has been  
10        lawfully admitted into the United States for tem-  
11        porary residence under section 2211.

12            (2) **AGRICULTURAL EMPLOYMENT.**—The term  
13        “agricultural employment” has the meaning given  
14        such term in section 3 of the Migrant and Seasonal  
15        Agricultural Worker Protection Act (29 U.S.C.  
16        1802), without regard to whether the specific service  
17        or activity is temporary or seasonal.

18            (3) **CHILD.**—The term “child” has the meaning  
19        given the term in section 101(b)(1) of the Immigra-  
20        tion and Nationality Act (8 U.S.C. 1101(b)(1)).

21            (4) **EMPLOYER.**—The term “employer” means  
22        any person or entity, including any farm labor con-  
23        tractor and any agricultural association, that em-  
24        ploys workers in agricultural employment.

1           (5) QUALIFIED DESIGNATED ENTITY.—The  
2       term “qualified designated entity” means—

3           (A) a qualified farm labor organization or  
4       an association of employers designated by the  
5       Secretary; or

6           (B) any other entity that the Secretary  
7       designates as having substantial experience,  
8       demonstrated competence, and a history of  
9       long-term involvement in the preparation and  
10      submission of application for adjustment of sta-  
11      tus under title II of the Immigration and Na-  
12      tionality Act (8 U.S.C. 1151 et seq.).

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

16   **CHAPTER 1—PROGRAM FOR EARNED STA-**  
17   **TUS ADJUSTMENT OF AGRICULTURAL**  
18   **WORKERS**

19       **Subchapter A—Blue Card Status**

20   **SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS.**

21      (a) REQUIREMENTS FOR BLUE CARD STATUS.—Not-  
22   withstanding any other provision of law, the Secretary,  
23   after conducting the national security and law enforce-  
24   ment clearances required under section 245B(c)(4), may  
25   grant blue card status to an alien who—

1           (1)(A) performed agricultural employment in  
2           the United States for not fewer than 575 hours or  
3           100 work days during the 2-year period ending on  
4           December 31, 2012; or

5           (B) is the spouse or child of an alien described  
6           in subparagraph (A) and was physically present in  
7           the United States on or before December 31, 2012,  
8           and has maintained continuous presence in the  
9           United States from that date until the date on which  
10          the alien is granted blue card status, with the excep-  
11          tion of absences from the United States that are  
12          brief, casual, and innocent, whether or not such ab-  
13          sences were authorized by the Secretary;

14          (2) submits a completed application before the  
15          end of the period set forth in subsection (b)(2); and

16          (3) is not ineligible under paragraph (3) or (4)  
17          of section 245B(b) of the Immigration and Nation-  
18          ality Act (other than a nonimmigrant alien admitted  
19          to the United States for agricultural employment de-  
20          scribed in section 101(a)(15)(H)(ii)(a) of such Act.

21       (b) APPLICATION.—

22           (1) IN GENERAL.—An alien who meets the eli-  
23           gibility requirements set forth in subsection (a)(1),  
24           may apply for blue card status and that alien's  
25           spouse or child may apply for blue card status as a



1 dependent, by submitting a completed application  
2 form to the Secretary during the application period  
3 set forth in paragraph (2) in accordance with the  
4 final rule promulgated by the Secretary pursuant to  
5 subsection (e).

6 (2) SUBMISSION.—The Secretary shall provide  
7 that the alien shall be able to submit an application  
8 under paragraph (1)—

9 (A) if the applicant is represented by an  
10 attorney or a nonprofit religious, charitable, so-  
11 cial service, or similar organization recognized  
12 by the Board of Immigration Appeals under  
13 section 292.2 of title 8, Code of Federal Regu-  
14 lations; or

15 (B) to a qualified entity if the applicant  
16 consents to the forwarding of the application to  
17 the Secretary.

18 (3) APPLICATION PERIOD.—

19 (A) INITIAL PERIOD.—Except as provided  
20 in subparagraph (B), the Secretary may only  
21 accept applications for blue card status for a 1-  
22 year period from aliens in the United States be-  
23 ginning on the date on which the final rule is  
24 published in the Federal Register pursuant to  
25 subsection (f), except that qualified non-

1 immigrants who have participated in the H-2A  
2 Program may apply from outside of the United  
3 States.

4 (B) EXTENSION.—If the Secretary deter-  
5 mines, during the initial period described in  
6 subparagraph (A), that additional time is re-  
7 quired to process applications for blue card sta-  
8 tus or for other good cause, the Secretary may  
9 extend the period for accepting applications for  
10 an additional 18 months.

11 (4) APPLICATION FORM.—

12 (A) REQUIRED INFORMATION.—The appli-  
13 cation form referred to in paragraph (1) shall  
14 collect such information as the Secretary deter-  
15 mines necessary and appropriate.

16 (B) FAMILY APPLICATION.—The Secretary  
17 shall establish a process through which an alien  
18 may submit a single application under this sec-  
19 tion on behalf of the alien, his or her spouse,  
20 and his or her children, who are residing in the  
21 United States.

22 (C) INTERVIEW.—The Secretary may  
23 interview applicants for blue card status to de-  
24 termine whether they meet the eligibility re-  
25 quirements set forth in subsection (a)(1).

1           (5) ALIENS APPREHENDED BEFORE OR DURING  
2       THE APPLICATION PERIOD.—If an alien, who is ap-  
3       prehended during the period beginning on the date  
4       of the enactment of this Act and ending on the ap-  
5       plication period described in paragraph (3), appears  
6       prima facie eligible for blue card status, the Sec-  
7       retary—

8           (A) shall provide the alien with a reason-  
9       able opportunity to file an application under  
10      this section during such application period; and

11           (B) may not remove the individual until a  
12      final administrative determination is made on  
13      the application.

14           (6) SUSPENSION OF REMOVAL DURING APPLI-  
15      CATION PERIOD.—

16           (A) PROTECTION FROM DETENTION OR  
17      REMOVAL.—An alien granted blue card status  
18      may not be detained by the Secretary or re-  
19      moved from the United States unless—

20           (i) such alien is, or has become, ineli-  
21      gible for blue card status; or

22           (ii) the alien's blue card status has  
23      been revoked.

24           (B) ALIENS IN REMOVAL PROCEEDINGS.—

25      Notwithstanding any other provision of the Im-

1 migration and Nationality Act (8 U.S.C. 1101  
2 et seq.)—

3 (i) if the Secretary determines that an  
4 alien, during the period beginning on the  
5 date of the enactment of this section and  
6 ending on the last day of the application  
7 period described in paragraph (2), is in re-  
8 moval, deportation, or exclusion pro-  
9 ceedings before the Executive Office for  
10 Immigration Review and is prima facie eli-  
11 gible for blue card status under this sec-  
12 tion—

13 (I) the Secretary shall provide  
14 the alien with the opportunity to file  
15 an application for such status; and

16 (II) upon motion by the Sec-  
17 retary and with the consent of the  
18 alien or upon motion by the alien, the  
19 Executive Office for Immigration Re-  
20 view shall—

21 (aa) terminate such pro-  
22 ceedings without prejudice to fu-  
23 ture proceedings on any basis;  
24 and

1 (bb) provide the alien a rea-  
2 sonable opportunity to apply for  
3 such status; and

4 (ii) if the Executive Office for Immi-  
5 gration Review determines that an alien,  
6 during the application period described in  
7 paragraph (2), is in removal, deportation,  
8 or exclusion proceedings before the Execu-  
9 tive Office for Immigration Review and is  
10 prima facie eligible for blue card status  
11 under this section—

12 (I) the Executive Office of Immi-  
13 gration Review shall notify the Sec-  
14 retary of such determination; and

15 (II) if the Secretary does not dis-  
16 pute the determination of prima facie  
17 eligibility within 7 days after such no-  
18 tification, the Executive Office for Im-  
19 migration Review, upon consent of the  
20 alien, shall—

21 (aa) terminate such pro-  
22 ceedings without prejudice to fu-  
23 ture proceedings on any basis;  
24 and

1 (bb) permit the alien a rea-  
2 sonable opportunity to apply for  
3 such status.

4 (C) TREATMENT OF CERTAIN ALIENS.—

5 (i) IN GENERAL.—If an alien who  
6 meets the eligibility requirements set forth  
7 in subsection (a) is present in the United  
8 States and has been ordered excluded, de-  
9 ported, or removed, or ordered to depart  
10 voluntarily from the United States under  
11 any provision of this Act—

12 (I) notwithstanding such order or  
13 section 241(a)(5) of the Immigration  
14 and Nationality Act (8 U.S.C.  
15 1231(a)(5)), the alien may apply for  
16 blue card status under this section;  
17 and

18 (II) if the alien is granted such  
19 status, the alien shall file a motion to  
20 reopen the exclusion, deportation, re-  
21 moval, or voluntary departure order,  
22 which motion shall be granted unless  
23 1 or more of the grounds of ineligi-  
24 bility is established by clear and con-  
25 vincing evidence.

1 (ii) LIMITATIONS ON MOTIONS TO RE-  
2 OPEN.—The limitations on motions to re-  
3 open set forth in section 240(c)(7) of the  
4 Immigration and Nationality Act (8 U.S.C.  
5 1229a(c)(7)) shall not apply to motions  
6 filed under clause (i)(II).

7 (D) PERIOD PENDING ADJUDICATION OF  
8 APPLICATION.—

9 (i) IN GENERAL.—During the period  
10 beginning on the date on which an alien  
11 applies for blue card status under this sub-  
12 section and the date on which the Sec-  
13 retary makes a final decision regarding  
14 such application, the alien—

15 (I) may receive advance parole to  
16 reenter the United States if urgent  
17 humanitarian circumstances compel  
18 such travel;

19 (II) may not be detained by the  
20 Secretary or removed from the United  
21 States unless the Secretary makes a  
22 prima facie determination that such  
23 alien is, or has become, ineligible for  
24 blue card status;

1 (III) shall not be considered un-  
2 lawfully present for purposes of sec-  
3 tion 212(a)(9)(B) of the Immigration  
4 and Nationality Act (8 U.S.C.  
5 1182(a)(9)(B)); and

6 (IV) shall not be considered an  
7 unauthorized alien (as defined in sec-  
8 tion 274A(h)(3) of the Immigration  
9 and Nationality Act (8 U.S.C.  
10 1324a(h)(3))).

11 (ii) EVIDENCE OF APPLICATION FIL-  
12 ING.—As soon as practicable after receiv-  
13 ing each application for blue card status,  
14 the Secretary shall provide the applicant  
15 with a document acknowledging the receipt  
16 of such application.

17 (iii) CONTINUING EMPLOYMENT.—An  
18 employer who knows an alien employee is  
19 an applicant for blue card status or will  
20 apply for such status once the application  
21 period commences is not in violation of sec-  
22 tion 274A(a)(2) of the Immigration and  
23 Nationality Act (8 U.S.C. 1324a(a)(2)) if  
24 the employer continues to employ the alien



1 pending the adjudication of the alien em-  
2 ployee's application.

3 (iv) EFFECT OF DEPARTURE.—Sec-  
4 tion 101(g) of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1101(g)) shall not  
6 apply to an alien granted—

7 (I) advance parole under clause  
8 (i)(I) to reenter the United States; or  
9 (II) blue card status.

10 (7) SECURITY AND LAW ENFORCEMENT CLEAR-  
11 ANCES.—

12 (A) BIOMETRIC AND BIOGRAPHIC DATA.—  
13 The Secretary may not grant blue card status  
14 to an alien or an alien dependent spouse or  
15 child under this section unless such alien sub-  
16 mits biometric and biographic data in accord-  
17 ance with procedures established by the Sec-  
18 retary.

19 (B) ALTERNATIVE PROCEDURES.—The  
20 Secretary shall provide an alternative procedure  
21 for applicants who cannot provide the standard  
22 biometric data required under subparagraph  
23 (A) because of a physical impairment.

24 (C) CLEARANCES.—

1 (i) DATA COLLECTION.—The Sec-  
2 retary shall collect, from each alien apply-  
3 ing for status under this section, biometric,  
4 biographic, and other data that the Sec-  
5 retary determines to be appropriate—

6 (I) to conduct national security  
7 and law enforcement clearances; and

8 (II) to determine whether there  
9 are any national security or law en-  
10 forcement factors that would render  
11 an alien ineligible for such status.

12 (ii) PREREQUISITE.—The required  
13 clearances described in clause (i)(I) shall  
14 be completed before the alien may be  
15 granted blue card status.

16 (8) DURATION OF STATUS.—After the date that  
17 is 8 years after the date regulations are published  
18 under this section, no alien may remain in blue card  
19 status.

20 (9) FEES AND PENALTIES.—

21 (A) STANDARD PROCESSING FEE.—

22 (i) IN GENERAL.—Aliens who are 16  
23 years of age or older and are applying for  
24 blue card status under paragraph (2), or  
25 for an extension of such status, shall pay

1 a processing fee to the Department in an  
2 amount determined by the Secretary.

3 (ii) RECOVERY OF COSTS.—The proc-  
4 essing fee authorized under clause (i) shall  
5 be set at a level that is sufficient to recover  
6 the full costs of processing the application,  
7 including any costs incurred—

8 (I) to adjudicate the application;

9 (II) to take and process bio-  
10 metrics;

11 (III) to perform national security  
12 and criminal checks, including adju-  
13 dication;

14 (IV) to prevent and investigate  
15 fraud; and

16 (V) to administer the collection  
17 of such fee.

18 (iii) AUTHORITY TO LIMIT FEES.—

19 The Secretary, by regulation, may—

20 (I) limit the maximum processing  
21 fee payable under this subparagraph  
22 by a family, including spouses and un-  
23 married children younger than 21  
24 years of age; and

1 (II) exempt defined classes of in-  
2 dividuals from the payment of the fee  
3 authorized under clause (i).

4 (B) DEPOSIT AND USE OF PROCESSING  
5 FEES.—Fees collected pursuant to subpara-  
6 graph (A)(i)—

7 (i) shall be deposited into the Immi-  
8 gration Examinations Fee Account pursu-  
9 ant to section 286(m); and

10 (ii) shall remain available until ex-  
11 pended pursuant to section 286(n).

12 (C) PENALTY.—

13 (i) PAYMENT.—In addition to the  
14 processing fee required under subpara-  
15 graph (A), aliens who are 21 years of age  
16 or older and are applying for blue card sta-  
17 tus under paragraph (2) shall pay a \$100  
18 penalty to the Department.

19 (ii) DEPOSIT.—Penalties collected  
20 pursuant to clause (i) shall be deposited  
21 into the Comprehensive Immigration Re-  
22 form Trust Fund established under section  
23 6(a)(1).

24 (10) ADJUDICATION.—

1 (A) FAILURE TO SUBMIT SUFFICIENT EVI-  
2 DENCE.—The Secretary shall deny an applica-  
3 tion submitted by an alien who fails to sub-  
4 mit—

5 (i) requested initial evidence, includ-  
6 ing requested biometric data; or

7 (ii) any requested additional evidence  
8 by the date required by the Secretary.

9 (B) AMENDED APPLICATION.—An alien  
10 whose application for blue card status is denied  
11 under subparagraph (A) may file an amended  
12 application for such status to the Secretary if  
13 the amended application—

14 (i) is filed within the application pe-  
15 riod described in paragraph (3); and

16 (ii) contains all the required informa-  
17 tion and fees that were missing from the  
18 initial application.

19 (11) EVIDENCE OF BLUE CARD STATUS.—

20 (A) IN GENERAL.—The Secretary shall  
21 issue documentary evidence of blue card status  
22 to each alien whose application for such status  
23 has been approved.

1 (B) DOCUMENTATION FEATURES.—Docu-  
2 mentary evidence provided under subparagraph  
3 (A)—

4 (i) shall be machine-readable and tam-  
5 per-resistant, and shall contain a digitized  
6 photograph;

7 (ii) shall, during the alien's authorized  
8 period of admission, and any extension of  
9 such authorized admission, serve as a valid  
10 travel and entry document for the purpose  
11 of applying for admission to the United  
12 States;

13 (iii) may be accepted during the pe-  
14 riod of its validity by an employer as evi-  
15 dence of employment authorization and  
16 identity under section 274A(b)(1)(B) of  
17 the Immigration and Nationality Act (8  
18 U.S.C. 1324a(b)(1)(B)); and

19 (iv) shall include such other features  
20 and information as the Secretary may pre-  
21 scribe.

22 (c) TERMS AND CONDITIONS OF BLUE CARD STA-  
23 TUS.—

24 (1) CONDITIONS OF BLUE CARD STATUS.—

1           (A) EMPLOYMENT.—Notwithstanding any  
2           other provision of law, including section  
3           241(a)(7) of the Immigration and Nationality  
4           Act (8 U.S.C. 1231(a)(7)), an alien with blue  
5           card status shall be authorized to be employed  
6           in the United States while in such status.

7           (B) TRAVEL OUTSIDE THE UNITED  
8           STATES.—An alien with blue card status may  
9           travel outside of the United States and may be  
10          admitted, if otherwise admissible, upon return-  
11          ing to the United States without having to ob-  
12          tain a visa if—

13               (i) the alien is in possession of—

14                       (I) valid, unexpired documentary  
15                       evidence of blue card status that com-  
16                       plies with subsection (b)(11); or

17                       (II) a travel document that has  
18                       been approved by the Secretary and  
19                       was issued to the alien after the  
20                       alien's original documentary evidence  
21                       was lost, stolen, or destroyed;

22               (ii) the alien's absence from the  
23               United States did not exceed 180 days, un-  
24               less the alien's failure to timely return was

1                   due to extenuating circumstances beyond  
2                   the alien's control; and

3                   (iii) the alien establishes that the alien  
4                   is not inadmissible under subparagraph  
5                   (A)(i), (A)(iii), (B), or (C) of section  
6                   212(a)(3) of the Immigration and Nation-  
7                   ality Act (8 U.S.C. 1182(a)(3)).

8                   (C) ADMISSION.—An alien granted blue  
9                   card status shall be considered to have been ad-  
10                  mitted in such status as of the date on which  
11                  the alien's application was filed.

12                  (D) CLARIFICATION OF STATUS.—An alien  
13                  granted blue card status—

14                   (i) is lawfully admitted to the United  
15                   States; and

16                   (ii) may not be classified as a non-  
17                   immigrant or as an alien who has been  
18                   lawfully admitted for permanent residence.

19                  (2) REVOCATION.—

20                  (A) IN GENERAL.—The Secretary may re-  
21                  voke blue card status at any time after pro-  
22                  viding appropriate notice to the alien, and after  
23                  the exhaustion or waiver of all applicable ad-  
24                  ministrative review procedures under section  
25                  245E(c) of the Immigration and Nationality



1 Act, as added by section 2104(a) of this Act, if  
2 the alien—

3 (i) no longer meets the eligibility re-  
4 quirements for blue card status;

5 (ii) knowingly used documentation  
6 issued under this section for an unlawful  
7 or fraudulent purpose; or

8 (iii) was absent from the United  
9 States for—

10 (I) any single period longer than  
11 180 days in violation of the require-  
12 ment under paragraph (1)(B)(ii); or

13 (II) for more than 180 days in  
14 the aggregate during any calendar  
15 year, unless the alien's failure to time-  
16 ly return was due to extenuating cir-  
17 cumstances beyond the alien's control.

18 (B) ADDITIONAL EVIDENCE.—

19 (i) IN GENERAL.—In determining  
20 whether to revoke an alien's status under  
21 subparagraph (A), the Secretary may re-  
22 quire the alien—

23 (I) to submit additional evidence;

24 or

25 (II) to appear for an interview.

1 (ii) EFFECT OF NONCOMPLIANCE.—

2 The status of an alien who fails to comply  
3 with any requirement imposed by the Sec-  
4 retary under clause (i) shall be revoked un-  
5 less the alien demonstrates to the Sec-  
6 retary's satisfaction that such failure was  
7 reasonably excusable.

8 (C) INVALIDATION OF DOCUMENTATION.—

9 If an alien's blue card status is revoked under  
10 subparagraph (A), any documentation issued by  
11 the Secretary to such alien under subsection  
12 (b)(11) shall automatically be rendered invalid  
13 for any purpose except for departure from the  
14 United States.

15 (3) INELIGIBILITY FOR PUBLIC BENEFITS.—An  
16 alien who has been granted blue card status is not  
17 eligible for any Federal means-tested public benefit  
18 (as such term is defined and implemented in section  
19 403 of the Personal Responsibility and Work Oppor-  
20 tunity Reconciliation Act of 1996 (8 U.S.C. 1613)).

21 (4) TREATMENT OF BLUE CARD STATUS.—A  
22 noncitizen granted blue card status shall be consid-  
23 ered lawfully present in the United States for all  
24 purposes while such noncitizen remains in such sta-  
25 tus, except that the noncitizen—

1 (A) is not entitled to the premium assist-  
2 ance tax credit authorized under section 36B of  
3 the Internal Revenue Code of 1986 for his or  
4 her coverage;

5 (B) shall be subject to the rules applicable  
6 to individuals who are not lawfully present set  
7 forth in subsection (e) of such section;

8 (C) shall be subject to the rules applicable  
9 to individuals who are not lawfully present set  
10 forth in section 1402(e) of the Patient Protec-  
11 tion and Affordable Care Act (42 U.S.C.  
12 18071(e)); and

13 (D) shall be subject to the rules applicable  
14 to individuals not lawfully present set forth in  
15 section 5000A(d)(3) of the Internal Revenue  
16 Code of 1986.

17 (5) ADJUSTMENT TO REGISTERED PROVISIONAL  
18 IMMIGRANT STATUS.—The Secretary may adjust the  
19 status of an alien who has been granted blue card  
20 status to the status of a registered provisional immi-  
21 grant under section 245B of the Immigration and  
22 Nationality Act if the Secretary determines that the  
23 alien is unable to fulfill the agricultural service re-  
24 quirement set forth in section 245F(a)(1) of such  
25 Act.

1 (d) RECORD OF EMPLOYMENT.—

2 (1) IN GENERAL.—Each employer of an alien  
3 granted blue card status shall annually provide—

4 (A) a written record of employment to the  
5 alien; and

6 (B) a copy of such record to the Secretary  
7 of Agriculture.

8 (2) CIVIL PENALTIES.—

9 (A) IN GENERAL.—If the Secretary finds,  
10 after notice and an opportunity for a hearing,  
11 that an employer of an alien granted blue card  
12 status has knowingly failed to provide the  
13 record of employment required under paragraph  
14 (1) or has provided a false statement of mate-  
15 rial fact in such a record, the employer shall be  
16 subject to a civil penalty in an amount not to  
17 exceed \$500 per violation.

18 (B) LIMITATION.—The penalty under sub-  
19 paragraph (A) for failure to provide employ-  
20 ment records shall not apply unless the alien  
21 has provided the employer with evidence of em-  
22 ployment authorization provided under sub-  
23 section (c).

24 (C) DEPOSIT OF CIVIL PENALTIES.—Civil  
25 penalties collected under this paragraph shall be

1 deposited in the Comprehensive Immigration  
2 Reform Trust Fund established under section  
3 6(a)(1).

4 (3) TERMINATION OF OBLIGATION.—The obli-  
5 gation under paragraph (1) shall terminate on the  
6 date that is 8 years after the date of the enactment  
7 of this Act.

8 (4) EMPLOYER PROTECTIONS.—

9 (A) USE OF EMPLOYMENT RECORDS.—  
10 Copies of employment records or other evidence  
11 of employment provided by an alien or by an  
12 alien's employer in support of an alien's appli-  
13 cation for blue card status may not be used in  
14 a civil or criminal prosecution or investigation  
15 of that employer under section 274A of the Im-  
16 migration and Nationality Act (8 U.S.C.  
17 1324a) or the Internal Revenue Code of 1986  
18 for the prior unlawful employment of that alien  
19 regardless of the adjudication of such applica-  
20 tion or reconsideration by the Secretary of such  
21 alien's prima facie eligibility determination.  
22 Employers that provide unauthorized aliens  
23 with copies of employment records or other evi-  
24 dence of employment pursuant to an application  
25 for blue card status shall not be subject to civil

1 and criminal liability pursuant to such section  
2 274A for employing such unauthorized aliens.

3 (B) LIMIT ON APPLICABILITY.—The pro-  
4 tections for employers and aliens under sub-  
5 paragraph (A) shall not apply if the aliens or  
6 employers submit employment records that are  
7 deemed to be fraudulent.

8 (e) RULEMAKING.—Not later than 1 year after the  
9 date of the enactment of this Act, the Secretary, in con-  
10 sultation with the Secretary of Agriculture, shall issue  
11 final regulations to implement this chapter.

12 **SEC. 2212. ADJUSTMENT TO PERMANENT RESIDENT STA-**  
13 **TUS.**

14 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.  
15 1255 et seq.) is amended by inserting after section 245E,  
16 as added by section 2104 of this Act, the following:

17 **“SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STA-**  
18 **TUS FOR AGRICULTURAL WORKERS.**

19 “(a) IN GENERAL.—Except as provided in subsection  
20 (b), and not earlier than 5 years after the date of the en-  
21 actment of the Border Security, Economic Opportunity,  
22 and Immigration Modernization Act, the Secretary shall  
23 adjust the status of an alien granted blue card status to  
24 that of an alien lawfully admitted for permanent residence

1 if the Secretary determines that the following require-  
2 ments are satisfied:

3 “(1) QUALIFYING EMPLOYMENT.—Except as  
4 provided in paragraph (3), the alien—

5 “(A) during the 8-year period beginning on  
6 the date of the enactment of the Border Secu-  
7 rity, Economic Opportunity, and Immigration  
8 Modernization Act, performed not less than 100  
9 work days of agricultural employment during  
10 each of 5 years; or

11 “(B) during the 5-year period beginning on  
12 such date of enactment, performed not less  
13 than 150 work days of agricultural employment  
14 during each of 3 years.

15 “(2) EVIDENCE.—An alien may demonstrate  
16 compliance with the requirement under paragraph  
17 (1) by submitting—

18 “(A) the record of employment described  
19 in section 2211(d) of the Border Security, Eco-  
20 nomic Opportunity, and Immigration Mod-  
21 ernization Act;

22 “(B) documentation that may be submitted  
23 under subsection (e)(4); or

24 “(C) any other documentation designated  
25 by the Secretary for such purpose.

1 “(3) EXTRAORDINARY CIRCUMSTANCES.—

2 “(A) IN GENERAL.—In determining wheth-  
3 er an alien has met the requirement under  
4 paragraph (1), the Secretary may credit the  
5 alien with not more than 12 additional months  
6 of agricultural employment in the United States  
7 to meet such requirement if the alien was un-  
8 able to work in agricultural employment due  
9 to—

10 “(i) pregnancy, disabling injury, or  
11 disease that the alien can establish through  
12 medical records;

13 “(ii) illness, disease, or other special  
14 needs of a child that the alien can establish  
15 through medical records;

16 “(iii) severe weather conditions that  
17 prevented the alien from engaging in agri-  
18 cultural employment for a significant pe-  
19 riod of time; or

20 “(iv) termination from agricultural  
21 employment, if the Secretary determines  
22 that—

23 “(I) the termination was without  
24 just cause; and



1 “(II) the alien was unable to find  
2 alternative agricultural employment  
3 after a reasonable job search.

4 “(B) EFFECT OF DETERMINATION.—A de-  
5 termination under subparagraph (A)(iv), with  
6 respect to an alien, shall not be conclusive,  
7 binding, or admissible in a separate or subse-  
8 quent judicial or administrative action or pro-  
9 ceeding between the alien and a current or  
10 prior employer of the alien or any other party.

11 “(4) APPLICATION PERIOD.—The alien applies  
12 for adjustment of status before the alien’s blue card  
13 status expires.

14 “(5) FINE.—The alien pays a fine of \$400 to  
15 the Secretary, which shall be deposited into the  
16 Comprehensive Immigration Reform Trust Fund es-  
17 tablished under section 6(a)(1) of the Border Secu-  
18 rity, Economic Opportunity, and Immigration Mod-  
19 ernization Act.

20 “(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF  
21 STATUS.—

22 “(1) IN GENERAL.—The Secretary may not ad-  
23 just the status of an alien granted blue card status  
24 if the alien—

1           “(A) is no longer eligible for blue card sta-  
2           tus; or

3           “(B) failed to perform the qualifying em-  
4           ployment requirement under subsection (a)(1),  
5           considering any amount credited by the Sec-  
6           retary under subsection (a)(3).

7           “(2) MAINTENANCE OF WAIVERS OF INADMIS-  
8           SIBILITY.—The grounds of inadmissibility set forth  
9           in section 212(a) that were previously waived for the  
10          alien or made inapplicable shall not apply for pur-  
11          poses of the alien’s adjustment of status under this  
12          section.

13          “(3) PENDING REVOCATION PROCEEDINGS.—If  
14          the Secretary has notified the applicant that the  
15          Secretary intends to revoke the applicant’s blue card  
16          status, the Secretary may not approve an application  
17          for adjustment of status under this section unless  
18          the Secretary makes a final determination not to re-  
19          voke the applicant’s status.

20          “(4) PAYMENT OF TAXES.—

21                 “(A) IN GENERAL.—An applicant may not  
22                 file an application for adjustment of status  
23                 under this section unless the applicant has sat-  
24                 isfied any applicable Federal tax liability.

1                   “(B) DEFINITION OF APPLICABLE FED-  
2                   ERAL TAX LIABILITY.—In this paragraph, the  
3                   term ‘applicable federal tax liability’ means all  
4                   Federal income taxes assessed in accordance  
5                   with section 6203 of the Internal Revenue Code  
6                   of 1986 since the date on which the applicant  
7                   was authorized to work in the United States in  
8                   blue card status.

9                   “(C) COMPLIANCE.—The applicant may  
10                  demonstrate compliance with subparagraph (A)  
11                  by submitting such documentation as the Sec-  
12                  retary, in consultation with the Secretary of the  
13                  Treasury, may require by regulation.

14               “(c) SPOUSES AND CHILDREN.—Notwithstanding  
15 any other provision of law, the Secretary shall grant per-  
16 manent resident status to the spouse or child of an alien  
17 whose status was adjusted under subsection (a) if—

18               “(1) the spouse or child (including any indi-  
19               vidual who was a child on the date such alien was  
20               granted blue card status) applies for such status;

21               “(2) the principal alien includes the spouse and  
22               children in an application for adjustment of status  
23               to that of a lawful permanent resident; and

24               “(3) the spouse or child is not ineligible for  
25               such status under section 245B.

1       “(d) NUMERICAL LIMITATIONS DO NOT APPLY.—

2       The numerical limitations under sections 201 and 202  
3       shall not apply to the adjustment of aliens to lawful per-  
4       manent resident status under this section.

5       “(e) SUBMISSION OF APPLICATIONS.—

6               “(1) INTERVIEW.—The Secretary may interview  
7       applicants for adjustment of status under this sec-  
8       tion to determine whether they meet the eligibility  
9       requirements set forth in this section.

10       “(2) FEES.—

11               “(A) IN GENERAL.—Applicants for adjust-  
12       ment of status under this section shall pay a  
13       processing fee to the Secretary in an amount  
14       that will ensure the recovery of the full costs of  
15       adjudicating such applications, including—

16                       “(i) the cost of taking and processing  
17       biometrics;

18                       “(ii) expenses relating to prevention  
19       and investigation of fraud; and

20                       “(iii) costs relating to the administra-  
21       tion of the fees collected.

22       “(B) AUTHORITY TO LIMIT FEES.—The  
23       Secretary, by regulation—

24               “(i) may limit the maximum proc-  
25       essing fee payable under this paragraph by

1 a family, including spouses and unmarried  
2 children younger than 21 years of age; and  
3 “(ii) may exempt individuals described  
4 in section 245B(c)(10) and other defined  
5 classes of individuals from the payment of  
6 the fee under subparagraph (A).

7 “(3) DISPOSITION OF FEES.—All fees collected  
8 under paragraph (2)(A)—

9 “(A) shall be deposited into the Immigra-  
10 tion Examinations Fee Account pursuant to  
11 section 286(m); and

12 “(B) shall remain available until expended  
13 pursuant to section 286(n).

14 “(4) DOCUMENTATION OF WORK HISTORY.—

15 “(A) BURDEN OF PROOF.—An alien apply-  
16 ing for blue card status under section 2211 of  
17 the Border Security, Economic Opportunity,  
18 and Immigration Modernization Act or for ad-  
19 justment of status under subsection (a) shall  
20 provide evidence that the alien has worked the  
21 requisite number of hours or days required  
22 under subsection (a)(1) of such section 2211 or  
23 subsection (a)(3) of this section, as applicable.

24 “(B) TIMELY PRODUCTION OF RECORDS.—

25 If an employer or farm labor contractor employ-

1           ing such an alien has kept proper and adequate  
2           records respecting such employment, the alien's  
3           burden of proof under subparagraph (A) may  
4           be met by securing timely production of those  
5           records under regulations to be promulgated by  
6           the Secretary.

7           “(C) SUFFICIENT EVIDENCE.—An alien  
8           may meet the burden of proof under subpara-  
9           graph (A) to establish that the alien has per-  
10          formed the days or hours of work referred to in  
11          subparagraph (A) by producing sufficient evi-  
12          dence to show the extent of that employment as  
13          a matter of just and reasonable inference.

14          “(f) PENALTIES FOR FALSE STATEMENTS IN APPLI-  
15          CATIONS.—

16          “(1) CRIMINAL PENALTY.—Any person who—  
17                  “(A) files an application for blue card sta-  
18                  tus under section 2211 of the Border Security,  
19                  Economic Opportunity, and Immigration Mod-  
20                  ernization Act or an adjustment of status under  
21                  this section and knowingly and willfully fal-  
22                  sifies, conceals, or covers up a material fact or  
23                  makes any false, fictitious, or fraudulent state-  
24                  ments or representations, or makes or uses any  
25                  false writing or document knowing the same to

1           contain any false, fictitious, or fraudulent state-  
2           ment or entry; or

3                 “(B) creates or supplies a false writing or  
4           document for use in making such an applica-  
5           tion,

6           shall be fined in accordance with title 18, United  
7           States Code, imprisoned not more than 5 years, or  
8           both.

9                 “(2) INADMISSIBILITY.—An alien who is con-  
10          victed of a crime under paragraph (1) shall be  
11          deemed inadmissible to the United States on the  
12          ground described in section 212(a)(6)(C)(i).

13                “(3) DEPOSIT.—Fines collected under para-  
14          graph (1) shall be deposited into the Comprehensive  
15          Immigration Reform Trust Fund established under  
16          section 6(a)(1) of the Border Security, Economic  
17          Opportunity, and Immigration Modernization Act.

18                “(g) ELIGIBILITY FOR LEGAL SERVICES.—Section  
19          504(a)(11) of the Departments of Commerce, Justice, and  
20          State, the Judiciary, and Related Agencies Appropriations  
21          Act, 1996 (Public Law 104–134; 110 Stat. 1321–55) may  
22          not be construed to prevent a recipient of funds under the  
23          Legal Services Corporation Act (42 U.S.C. 2996 et seq.)  
24          from providing legal assistance directly related to an appli-  
25          cation for blue card status under section 2211 of the Bor-

1 der Security, Economic Opportunity, and Immigration  
2 Modernization Act, to an individual who has been granted  
3 blue card status, or for an application for an adjustment  
4 of status under this section.

5 “(h) ADMINISTRATIVE AND JUDICIAL REVIEW.—  
6 Aliens applying for blue card status under section 2211  
7 of the Border Security, Economic Opportunity, and Immi-  
8 gration Modernization Act or adjustment to permanent  
9 resident status under this section shall be entitled to the  
10 rights and subject to the conditions applicable to other  
11 classes of aliens under sections 242(h) and 245E.

12 “(i) APPLICABILITY OF OTHER PROVISIONS.—The  
13 provisions set forth in section 245E which are applicable  
14 to aliens described in section 245B, 245C, and 245D shall  
15 apply to aliens applying for blue card status under section  
16 2211 of the Border Security, Economic Opportunity, and  
17 Immigration Modernization Act or adjustment to perma-  
18 nent resident status under this section.

19 “(j) LIMITATION ON BLUE CARD STATUS.—An alien  
20 granted blue card status under section 2211 of the Border  
21 Security, Economic Opportunity, and Immigration Mod-  
22 ernization Act may only adjust status to an alien lawfully  
23 admitted for permanent residence under this section, sec-  
24 tion 245C of this Act, or section 2302 of the Border Secu-



1 rity, Economic Opportunity, and Immigration Moderniza-  
2 tion Act.

3 “(k) DEFINITIONS.—In this section:

4 “(1) BLUE CARD STATUS.—The term ‘blue card  
5 status’ means the status of an alien who has been  
6 lawfully admitted into the United States for tem-  
7 porary residence under section 2211 of the Border  
8 Security, Economic Opportunity, and Immigration  
9 Modernization Act.

10 “(2) AGRICULTURAL EMPLOYMENT.—The term  
11 ‘agricultural employment’ has the meaning given  
12 such term in section 3 of the Migrant and Seasonal  
13 Agricultural Worker Protection Act (29 U.S.C.  
14 1802), without regard to whether the specific service  
15 or activity is temporary or seasonal.

16 “(3) EMPLOYER.—The term ‘employer’ means  
17 any person or entity, including any farm labor con-  
18 tractor and any agricultural association, that em-  
19 ploys workers in agricultural employment.

20 “(4) WORK DAY.—The term ‘work day’ means  
21 any day in which the individual is employed 5.75 or  
22 more hours in agricultural employment.”.

23 (b) CONFORMING AMENDMENT.—Section 201(b)(1)  
24 (8 U.S.C. 1151(b)(1), as amended by section 2103(c), is  
25 further amended by adding at the end the following:

1                   “(G) Aliens granted lawful permanent resi-  
2                   dent status under section 245F.”.

3           (c) CLERICAL AMENDMENT.—The table of contents,  
4 as amended by section 2104(e), is further amended by in-  
5 serting after the item relating to section 245E the fol-  
6 lowing:

“Sec. 245F. Adjustment to permanent resident status for agricultural work-  
ers.”.

7   **SEC. 2213. USE OF INFORMATION.**

8           Beginning not later than the first day of the applica-  
9 tion period described in section 2211(b)(3), the Secretary,  
10 in cooperation with qualified designated entities, shall  
11 broadly disseminate information respecting the benefits  
12 that aliens may receive under this subchapter and the re-  
13 quirements that an alien is required to meet to receive  
14 such benefits.

15   **SEC. 2214. REPORTS ON BLUE CARDS.**

16           Not later than September 30, 2013, and annually  
17 thereafter for the next 8 years, the Secretary shall submit  
18 a report to Congress that identifies, for the previous fiscal  
19 year—

20                   (1) the number of aliens who applied for blue  
21                   card status;

22                   (2) the number of aliens who were granted blue  
23                   card status;

1           (3) the number of aliens who applied for an ad-  
2           justment of status pursuant to section 245F(a) of  
3           the Immigration and Nationality Act, as added by  
4           section 2212; and

5           (4) the number of aliens who received an ad-  
6           justment of status pursuant such section 245F(a).

7   **SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.**

8           There are authorized to be appropriated to the Sec-  
9           retary such sums as may be necessary to implement this  
10          subchapter, including any sums needed for costs associ-  
11          ated with the initiation of such implementation, for fiscal  
12          years 2013 and 2014.

13   **Subchapter B—Correction of Social Security**  
14                                   **Records**

15   **SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.**

16          (a) IN GENERAL.—Section 208(e)(1) of the Social  
17          Security Act (42 U.S.C. 408(e)(1)) is amended—

18               (1) in subparagraph (B)(ii), by striking “or” at  
19               the end;

20               (2) in subparagraph (C), by inserting “or” at  
21               the end;

22               (3) by inserting after subparagraph (C) the fol-  
23               lowing:

1           “(D) who is granted blue card status  
2           under the Agricultural Worker Program Act of  
3           2013,”; and

4           (4) by striking “1990.” and inserting “1990, or  
5           in the case of an alien described in subparagraph  
6           (D), if such conduct is alleged to have occurred be-  
7           fore the date on which the alien was granted blue  
8           card status under section 2211(a) of the Agricul-  
9           tural Worker Program Act of 2013.”.

10          (b) EFFECTIVE DATE.—The amendments made by  
11          subsection (a) shall take effect on the first day of the sev-  
12          enth month that begins after the date of the enactment  
13          of this Act.

14                   **CHAPTER 2—NONIMMIGRANT**  
15                   **AGRICULTURAL VISA PROGRAM**

16          **SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON-**  
17                   **IMMIGRANT AGRICULTURAL WORKERS.**

18          Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-  
19          ed by adding at the end the following:

20                   “(W) an alien having a residence in a for-  
21                   eign country who is coming to the United  
22                   States for a temporary period—

23                           “(iii)(I) to perform services or labor in  
24                           agricultural employment and who has a  
25                           written contract that specifies the wages,

1           benefits, and working conditions of such  
2           full-time employment in an agricultural oc-  
3           cupation with a designated agricultural  
4           employer for a specified period of time;  
5           and

6           “(II) who meets the requirements  
7           under section 218A for a nonimmigrant  
8           visa described in this clause; or

9           “(iv)(I) to perform services or labor in  
10          agricultural employment and who has an  
11          offer of full-time employment in an agricul-  
12          tural occupation from a designated agricul-  
13          tural employer for such employment and is  
14          not described in clause (i); and

15          “(II) who meets the requirements  
16          under section 218A for a nonimmigrant  
17          visa described in this clause.”.

18 **SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICUL-**  
19 **TURAL WORKER PROGRAM.**

20       (a) IN GENERAL.—Chapter 2 of title II (8 U.S.C.  
21 1181 et seq.) is amended by inserting after section 218  
22 the following:

1   **“SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PRO-**  
2                   **GRAM.**

3           “(a) DEFINITIONS.—In this section and in clauses  
4 (iii) and (iv) of section 101(a)(15)(W):

5           “(1) AGRICULTURAL EMPLOYMENT.—The term  
6 ‘agricultural employment’ has the meaning given  
7 such term in section 3 of the Migrant and Seasonal  
8 Agricultural Worker Protection Act (29 U.S.C.  
9 1802), without regard to whether the specific service  
10 or activity is temporary or seasonal.

11           “(2) AT-WILL AGRICULTURAL WORKER.—The  
12 term ‘at-will agricultural worker’ means an alien  
13 present in the United States pursuant to section  
14 101(a)(15)(W)(iv).

15           “(3) BLUE CARD.—The term ‘blue card’ means  
16 an employment authorization and travel document  
17 issued to an alien granted blue card status under  
18 section 2211(a) of the Agricultural Worker Program  
19 Act of 2013.

20           “(4) CONTRACT AGRICULTURAL WORKER.—The  
21 term ‘contract agricultural worker’ means an alien  
22 present in the United States pursuant to section  
23 101(a)(15)(W)(iii).

24           “(5) DESIGNATED AGRICULTURAL EM-  
25 PLOYER.—The term ‘designated agricultural em-  
26 ployer’ means an employer who is registered with

1 the Secretary of Agriculture pursuant to subsection  
2 (e)(1).

3 “(6) ELECTRONIC JOB REGISTRY.—The term  
4 ‘Electronic Job Registry’ means the Electronic Job  
5 Registry of a State workforce agency (or similar suc-  
6 cessor registry).

7 “(7) EMPLOYER.—Except as otherwise pro-  
8 vided, the term ‘employer’ means any person or enti-  
9 ty, including any farm labor contractor and any ag-  
10 ricultural association, that employs workers in agri-  
11 cultural employment.

12 “(8) NONIMMIGRANT AGRICULTURAL WORK-  
13 ER.—The term ‘nonimmigrant agricultural worker’  
14 mean a nonimmigrant described in clause (iii) or (iv)  
15 of section 101(a)(15)(W).

16 “(9) PROGRAM.—The term ‘Program’ means  
17 the Nonimmigrant Agricultural Worker Program es-  
18 tablished under subsection (b).

19 “(10) SECRETARY.—Except as otherwise spe-  
20 cifically provided, the term ‘Secretary’ means the  
21 Secretary of Agriculture.

22 “(11) UNITED STATES WORKER.—The term  
23 ‘United States worker’ means an individual who—

24 “(A) is a national of the United States; or

25 “(B) is an alien who—

1 “(i) is lawfully admitted for perma-  
2 nent residence;

3 “(ii) is admitted as a refugee under  
4 section 207;

5 “(iii) is granted asylum under section  
6 208;

7 “(iv) holds a blue card; or

8 “(v) is an immigrant otherwise au-  
9 thorized by this Act or by the Secretary of  
10 Homeland Security to be employed in the  
11 United States.

12 “(b) REQUIREMENTS.—

13 “(1) EMPLOYER.—An employer may not employ  
14 an alien for agricultural employment under the Pro-  
15 gram unless such employer is a designated agricul-  
16 tural employer and complies with the terms of this  
17 section.

18 “(2) WORKER.—An alien may not be employed  
19 for agricultural employment under the Program un-  
20 less such alien is a nonimmigrant agricultural work-  
21 er and complies with the terms of this section.

22 “(c) NUMERICAL LIMITATION.—

23 “(1) FIRST 5 YEARS OF PROGRAM.—

24 “(A) IN GENERAL.—Subject to paragraph  
25 (2), the worldwide level of visas for non-



1 immigrant agricultural workers for the fiscal  
2 year during which the first visa is issued to a  
3 nonimmigrant agricultural worker and for each  
4 of the following 4 fiscal years shall be equal  
5 to—

6 “(i) 112,333; and

7 “(ii) the numerical adjustment made  
8 by the Secretary for such fiscal year in ac-  
9 cordance with paragraph (2).

10 “(B) QUARTERLY ALLOCATION.—The an-  
11 nual allocation of visas described in subpara-  
12 graph (A) shall be evenly allocated between the  
13 4 quarters of the fiscal year unless the Sec-  
14 retary determines that an alternative allocation  
15 would better accommodate the seasonal demand  
16 for visas. Any unused visas in a quarter shall  
17 be added to the allocation for the subsequent  
18 quarter of the same fiscal year.

19 “(C) EFFECT OF 2ND OR SUBSEQUENT  
20 DESIGNATED AGRICULTURAL EMPLOYER.—A  
21 nonimmigrant agricultural worker who has a  
22 valid visa issued under this section that counted  
23 against the allocation described in subpara-  
24 graph (A) shall not be recounted against the al-

1 location if the worker is petitioned for by a sub-  
2 sequent designated agricultural employer.

3 “(2) ANNUAL ADJUSTMENTS FOR FIRST 5  
4 YEARS OF PROGRAM.—

5 “(A) IN GENERAL.—The Secretary, in con-  
6 sultation with the Secretary of Labor, and after  
7 reviewing relevant evidence submitted by agri-  
8 cultural producers and organizations rep-  
9 resenting agricultural workers, may increase or  
10 decrease, as appropriate, the worldwide level of  
11 visas under paragraph (1) for each of the 5 fis-  
12 cal years referred to in paragraph (1) after con-  
13 sidering appropriate factors, including—

14 “(i) a demonstrated shortage of agri-  
15 cultural workers;

16 “(ii) the level of unemployment and  
17 underemployment of agricultural workers  
18 during the preceding fiscal year;

19 “(iii) the number of applications for  
20 blue card status;

21 “(iv) the number of blue card visa ap-  
22 plications approved;

23 “(v) the number of nonimmigrant ag-  
24 ricultural workers sought by employers  
25 during the preceding fiscal year;

1                   “(vi) the estimated number of United  
2                   States workers, including blue card work-  
3                   ers, who worked in agriculture during the  
4                   preceding fiscal year;

5                   “(vii) the number of nonimmigrant  
6                   agricultural workers issued a visa in the  
7                   most recent fiscal year who remain in the  
8                   United States in compliance with the terms  
9                   of such visa;

10                  “(viii) the number of United States  
11                  workers who accepted jobs offered by em-  
12                  ployers using the Electronic Job Registry  
13                  during the preceding fiscal year;

14                  “(ix) any growth or contraction of the  
15                  United States agricultural industry that  
16                  has increased or decreased the demand for  
17                  agricultural workers; and

18                  “(x) any changes in the real wages  
19                  paid to agricultural workers in the United  
20                  States as an indication of a shortage or  
21                  surplus of agricultural labor.

22                  “(B) NOTIFICATION; IMPLEMENTATION.—  
23                  The Secretary shall notify the Secretary of  
24                  Homeland Security of any change to the world-  
25                  wide level of visas for nonimmigrant agricul-

1           tural workers. The Secretary of Homeland Se-  
2           curity shall implement such changes.

3           “(C)    EMERGENCY    PROCEDURES.—The  
4           Secretary shall establish, by regulation, proce-  
5           dures for immediately adjusting an annual allo-  
6           cation under paragraph (1) for labor shortages,  
7           as determined by the Secretary. The Secretary  
8           shall make a decision on a petition for an ad-  
9           justment of status not later than 30 days after  
10          receiving such petition.

11          “(3) SIXTH AND SUBSEQUENT YEARS OF PRO-  
12          GRAM.—The Secretary, in consultation with the Sec-  
13          retary of Labor, shall establish the worldwide level  
14          of visas for nonimmigrant agricultural workers for  
15          each fiscal year following the fiscal years referred to  
16          in paragraph (1) after considering appropriate fac-  
17          tors, including—

18                 “(A) a demonstrated shortage of agricul-  
19                 tural workers;

20                 “(B) the level of unemployment and under-  
21                 employment of agricultural workers during the  
22                 preceding fiscal year;

23                 “(C) the number of applications for blue  
24                 card status;

1           “(D) the number of blue card visa applica-  
2           tions approved;

3           “(E) the number of nonimmigrant agricul-  
4           tural workers sought by employers during the  
5           preceding fiscal year;

6           “(F) the estimated number of United  
7           States workers, including blue card workers,  
8           who worked in agriculture during the preceding  
9           fiscal year;

10          “(G) the number of nonimmigrant agricul-  
11          tural workers issued a visa in the most recent  
12          fiscal year who remain in the United States in  
13          compliance with the terms of such visa;

14          “(H) the number of United States workers  
15          who accepted jobs offered by employers using  
16          the Electronic Job Registry during the pre-  
17          ceding fiscal year;

18          “(I) any growth or contraction of the  
19          United States agricultural industry that has in-  
20          creased or decreased the demand for agricul-  
21          tural workers; and

22          “(J) any changes in the real wages paid to  
23          agricultural workers in the United States as an  
24          indication of a shortage or surplus of agricul-  
25          tural labor.

1           “(4) EMERGENCY PROCEDURES.—The Sec-  
2       retary shall establish, by regulation, procedures for  
3       immediately adjusting an annual allocation under  
4       paragraph (3) for labor shortages, as determined by  
5       the Secretary. The Secretary shall make a decision  
6       on a petition for an adjustment of status not later  
7       than 30 days after receiving such petition

8       “(d) REQUIREMENTS FOR NONIMMIGRANT AGRICUL-  
9       TURAL WORKERS.—

10           “(1) ELIGIBILITY FOR NONIMMIGRANT AGRI-  
11       CULTURAL WORKER STATUS.—

12           “(A) IN GENERAL.—An alien is not eligible  
13       to be admitted to the United States as a non-  
14       immigrant agricultural worker if the alien—

15           “(i) violated a material term or condi-  
16       tion of a previous admission as a non-  
17       immigrant agricultural worker during the  
18       most recent 3-year period (other than a  
19       contract agricultural worker who volun-  
20       tarily abandons his or her employment be-  
21       fore the end of the contract period or  
22       whose employment is terminated by the  
23       employer for cause);

24           “(ii) has not obtained successful clear-  
25       ance of any security and criminal back-

1 ground checks required by the Secretary of  
2 Homeland Security or any other examina-  
3 tion required under this Act; or

4 “(iii)(I) departed from the United  
5 States while subject to an order of exclu-  
6 sion, deportation, or removal, or pursuant  
7 to an order of voluntary departure; and

8 “(II)(aa) is outside of the United  
9 States; or

10 “(bb) has reentered the United States  
11 illegally after December 31, 2012, without  
12 receiving consent to the alien’s reapplica-  
13 tion for admission under section 212(a)(9).

14 “(B) WAIVER.—The Secretary of Home-  
15 land Security may waive the application of sub-  
16 paragraph (A)(iii) on behalf of an alien if the  
17 alien—

18 “(i) is the spouse or child of a United  
19 States citizen or lawful permanent resi-  
20 dent;

21 “(ii) is the parent of a child who is a  
22 United States citizen or lawful permanent  
23 resident;

1 “(iii) meets the requirements set forth  
2 in clause (ii) or (iii) of section  
3 245D(b)(1)(A); or

4 “(iv)(I) meets the requirements set  
5 forth in section 245D(b)(1)(A)(ii);

6 “(II) is 16 years or older on the date  
7 on which the alien applies for non-  
8 immigrant agricultural status; and

9 “(III) was physically present in the  
10 United States for an aggregate period of  
11 not less than 3 years during the 6-year pe-  
12 riod immediately preceding the date of the  
13 enactment of this section.

14 “(2) TERM OF STAY FOR NONIMMIGRANT AGRI-  
15 CULTURAL WORKERS.—

16 “(A) IN GENERAL.—

17 “(i) INITIAL ADMISSION.—A non-  
18 immigrant agricultural worker may be ad-  
19 mitted into the United States in such sta-  
20 tus for an initial period of 3 years.

21 “(ii) RENEWAL.—A nonimmigrant ag-  
22 ricultural worker may renew such worker’s  
23 period of admission in the United States  
24 for 1 additional 3-year period.



1           “(B) BREAK IN PRESENCE.—A non-  
2           immigrant agricultural worker who has been  
3           admitted to the United States for 2 consecutive  
4           periods under subparagraph (A) is ineligible to  
5           renew the alien’s nonimmigrant agricultural  
6           worker status until such alien—

7                   “(i) returns to a residence outside the  
8                   United States for a period of not less than  
9                   3 months; and

10                   “(ii) seeks to reenter the United  
11                   States under the terms of the Program as  
12                   a nonimmigrant agricultural worker.

13           “(3) LOSS OF STATUS.—

14                   “(A) IN GENERAL.—An alien admitted as  
15                   a nonimmigrant agricultural worker shall be in-  
16                   eligible for such status and shall be required to  
17                   depart the United States if such alien—

18                   “(i) after the completion of his or her  
19                   contract with a designated agricultural em-  
20                   ployer, is not employed in agricultural em-  
21                   ployment by a designated agricultural em-  
22                   ployer; or

23                   “(ii) is an at-will agricultural worker  
24                   and is not continuously employed by a des-  
25                   ignated agricultural employer in agricul-

1                   tural employment as an at-will agricultural  
2                   worker.

3                   “(B) EXCEPTION.—Subject to subpara-  
4                   graph (C), a nonimmigrant agricultural worker  
5                   has not violated subparagraph (A) if the non-  
6                   immigrant agricultural worker is not employed  
7                   in agricultural employment for a period not to  
8                   exceed 60 days.

9                   “(C) WAIVER.—Notwithstanding subpara-  
10                  graph (B), the Secretary of Homeland Security  
11                  may waive the application of clause (i) or (ii) of  
12                  subparagraph (A) for a nonimmigrant agricul-  
13                  tural worker who was not employed in agricul-  
14                  tural employment for a period of more than 60  
15                  days if such period of unemployment was due  
16                  to—

17                               “(i) the injury of such worker; or

18                               “(ii) a natural disaster declared by  
19                               the Secretary.

20                   “(D) TOLLING OF EMPLOYMENT REQUIRE-  
21                   MENT.—A nonimmigrant agricultural worker  
22                   may leave the United States for up to 60 days  
23                   in any fiscal year while in such status. During  
24                   the period in which the worker is outside of the

1 United States, the 60-day limit specified in sub-  
2 paragraph (B) shall be tolled.

3 “(4) PORTABILITY OF STATUS.—

4 “(A) CONTRACT AGRICULTURAL WORK-  
5 ERS.—

6 “(i) IN GENERAL.—Except as pro-  
7 vided in clause (ii), an alien who entered  
8 the United States as a contract agricul-  
9 tural worker may—

10 “(I) seek employment as a non-  
11 immigrant agricultural worker with a  
12 designated agricultural employer other  
13 than the designated agricultural em-  
14 ployer with whom the employee had a  
15 contract described in section  
16 101(a)(15)(W)(iii)(I); and

17 “(II) accept employment with  
18 such new employer after the date the  
19 contract agricultural worker completes  
20 such contract.

21 “(ii) VOLUNTARY ABANDONMENT;  
22 TERMINATION FOR CAUSE.—A contract ag-  
23 ricultural worker who voluntarily abandons  
24 his or her employment before the end of

1 the contract period or whose employment  
2 is terminated for cause by the employer—

3 “(I) may not accept subsequent  
4 employment with another designated  
5 agricultural employer without first de-  
6 parting the United States and reen-  
7 tering pursuant to a new offer of em-  
8 ployment; and

9 “(II) is not entitled to the 75  
10 percent payment guarantee described  
11 in subsection (e)(4)(B).

12 “(iii) TERMINATION BY MUTUAL  
13 AGREEMENT.—The termination of an em-  
14 ployment contract by mutual agreement of  
15 the designated agricultural employer and  
16 the contract agricultural worker shall not  
17 be considered voluntary abandonment for  
18 purposes of clause (ii).

19 “(B) AT-WILL AGRICULTURAL WORK-  
20 ERS.—An alien who entered the United States  
21 as an at-will agricultural worker may seek em-  
22 ployment as an at-will agricultural worker with  
23 any other designated agricultural employer re-  
24 ferred to in section 101(a)(15)(W)(iv)(I).

1           “(5) PROHIBITION ON GEOGRAPHIC LIMITA-  
2           TION.—A nonimmigrant visa issued to a non-  
3           immigrant agricultural worker—

4                   “(A) shall not limit the geographical area  
5                   within which such worker may be employed;

6                   “(B) shall not limit the type of agricultural  
7                   employment such worker may perform; and

8                   “(C) shall restrict such worker to employ-  
9                   ment with designated agricultural employers.

10           “(6) TREATMENT OF SPOUSES AND CHIL-  
11           DREN.—A spouse or child of a nonimmigrant agri-  
12           cultural worker—

13                   “(A) shall not be entitled to a visa or any  
14                   immigration status by virtue of the relationship  
15                   of such spouse or child to such worker; and

16                   “(B) may be provided status as a non-  
17                   immigrant agricultural worker if the spouse or  
18                   child is independently qualified for such status.

19           “(e) EMPLOYER REQUIREMENTS.—

20                   “(1) DESIGNATED AGRICULTURAL EMPLOYER  
21                   STATUS.—

22                   “(A) REGISTRATION REQUIREMENT.—  
23                   Each employer seeking to employ nonimmigrant  
24                   agricultural workers shall register for des-  
25                   ignated agricultural employer status by submit-

1           ting to the Secretary, through the Farm Service  
2           Agency in the geographic area of the employer  
3           or electronically to the Secretary, a registration  
4           that includes—

5                   “(i) the employer’s employer identi-  
6                   fication number; and

7                   “(ii) a registration fee, in an amount  
8                   determined by the Secretary, which shall  
9                   be used for the costs of administering the  
10                  program.

11               “(B) CRITERIA.—The Secretary shall  
12               grant designated agricultural employer status to  
13               an employer who submits a registration for  
14               such status that includes—

15                   “(i) documentation that the employer  
16                   is engaged in agriculture;

17                   “(ii) the estimated number of non-  
18                   immigrant agricultural workers the em-  
19                   ployer will need each year;

20                   “(iii) the anticipated periods during  
21                   which the employer will need such workers;  
22                   and

23                   “(iv) documentation establishing need  
24                   for a specified agricultural occupation or  
25                   occupations.

1 “(C) DESIGNATION.—

2 “(i) REGISTRATION NUMBER.—The  
3 Secretary shall assign each employer that  
4 meets the criteria established pursuant to  
5 subparagraph (B) with a designated agri-  
6 cultural employer registration number.

7 “(ii) TERM OF DESIGNATION.—Each  
8 employer granted designated agricultural  
9 employer status under this paragraph shall  
10 retain such status for a term of 3 years.  
11 At the end of such 3-year term, the em-  
12 ployer may renew the registration for an-  
13 other 3-year term if the employer meets  
14 the requirements set forth in subpara-  
15 graphs (A) and (B).

16 “(D) ASSISTANCE.—In carrying out the  
17 functions described in this subsection, the Sec-  
18 retary may work through the Farm Service  
19 Agency, or any other agency in the Department  
20 of Agriculture—

21 “(i) to assist agricultural employers  
22 with the registration process under this  
23 paragraph by providing such employers  
24 with—

1 “(I) technical assistance and ex-  
2 pertise;

3 “(II) internet access for submit-  
4 ting such applications; and

5 “(III) a nonelectronic means for  
6 submitting such registrations; and

7 “(ii) to provide resources about the  
8 Program, including best practices and  
9 compliance related assistance and re-  
10 sources or training to assist in retention of  
11 such workers to agricultural employers.

12 “(E) DEPOSIT OF REGISTRATION FEE.—  
13 Fees collected pursuant to subparagraph  
14 (A)(ii)—

15 “(i) shall be deposited into the Immi-  
16 gration Examinations Fee Account pursu-  
17 ant to section 286(m); and

18 “(ii) shall remain available until ex-  
19 pended pursuant to section 286(n).

20 “(2) NONIMMIGRANT AGRICULTURAL WORKER  
21 PETITION PROCESS.—

22 “(A) IN GENERAL.—Not later than 45  
23 days before the date on which nonimmigrant  
24 agricultural workers are needed, a designated  
25 agricultural employer seeking to employ such



1 workers shall submit a petition to the Secretary  
2 of Homeland Security that includes the employ-  
3 er's designated agricultural employer registra-  
4 tion number.

5 “(B) ATTESTATION.—An petition sub-  
6 mitted under subparagraph (A) shall include an  
7 attestation of the following:

8 “(i) The number of named or  
9 unnamed nonimmigrant agricultural work-  
10 ers the designated agricultural employer is  
11 seeking to employ during the applicable pe-  
12 riod of employment.

13 “(ii) The total number of contract ag-  
14 ricultural workers and of at-will agricul-  
15 tural workers the employer will require for  
16 each occupational category.

17 “(iii) The anticipated period, includ-  
18 ing expected beginning and ending dates,  
19 during which such employees will be need-  
20 ed.

21 “(iv) Evidence of contracts or written  
22 disclosures of employment terms and con-  
23 ditions in accordance with the Migrant and  
24 Seasonal Agricultural Worker Protection  
25 Act (29 U.S.C. 1801 et seq.), which have

1           been disclosed or provided to the non-  
2           immigrant agricultural workers, or a sam-  
3           ple of such contract or disclosure for  
4           unnamed workers.

5           “(v) The information submitted to the  
6           State workforce agency pursuant to para-  
7           graph (3)(A)(i).

8           “(vi) The record of United States  
9           workers described in paragraph (3)(A)(iii)  
10          on the date of the request.

11          “(vii) Evidence of offers of employ-  
12          ment made to United States workers as re-  
13          quired under paragraph (3)(B).

14          “(viii) The employer will comply with  
15          the additional program requirements for  
16          designated agricultural employers de-  
17          scribed in paragraph (4).

18          “(C) EMPLOYMENT AUTHORIZATION WHEN  
19          CHANGING EMPLOYERS.—Nonimmigrant agri-  
20          cultural workers in the United States who are  
21          identified in a petition submitted pursuant to  
22          subparagraph (A) and are in lawful status may  
23          commence employment with their designated  
24          agricultural employer after such employer has

1 submitted such petition to the Secretary of  
2 Homeland Security.

3 “(D) REVIEW.—The Secretary of Home-  
4 land Security shall review each petition sub-  
5 mitted by designated agricultural employers  
6 under this paragraph for completeness or obvi-  
7 ous inaccuracies. Unless the Secretary of  
8 Homeland Security determines that the petition  
9 is incomplete or obviously inaccurate, the Sec-  
10 retary shall accept the petition. The Secretary  
11 shall establish a procedure for the processing of  
12 petitions filed under this subsection. Not later  
13 than 7 working days after the date of the filing,  
14 the Secretary, by electronic or other means as-  
15 suring expedited delivery, shall submit a copy of  
16 notice of approval or denial of the petition to  
17 the petitioner and, in the case of approved peti-  
18 tions, to the appropriate immigration officer at  
19 the port of entry or United States consulate, as  
20 appropriate, if the petitioner has indicated that  
21 the alien beneficiary or beneficiaries will apply  
22 for a visa or admission to the United States.

23 “(3) EMPLOYMENT OF UNITED STATES WORK-  
24 ERS.—

25 “(A) RECRUITMENT.—

1                   “(i) FILING A JOB OPPORTUNITY  
2                   WITH LOCAL OFFICE OF STATE WORK-  
3                   FORCE AGENCY.—Not later than 60 days  
4                   before the date on which the employer de-  
5                   sires to employ a nonimmigrant agricul-  
6                   tural worker, the employer shall submit the  
7                   job opportunity for such worker to the  
8                   local office of the State workforce agency  
9                   where the job site is located and authorize  
10                  the posting of the job opportunity on the  
11                  appropriate Department of Labor Elec-  
12                  tronic Job Registry for a period of 45  
13                  days.

14               “(ii) CONSTRUCTION.—Nothing in  
15               clause (i) may be construed to cause a  
16               posting referred to in clause (i) to be treat-  
17               ed as an interstate job order under section  
18               653.500 of title 20, Code of Federal Regu-  
19               lations (or similar successor regulation).

20               “(iii) RECORD OF UNITED STATES  
21               WORKERS.—An employer shall keep a  
22               record of all eligible, able, willing, and  
23               qualified United States workers who apply  
24               for agricultural employment with the em-  
25               ployer for the agricultural employment for

1           which the nonimmigrant agricultural non-  
2           immigrant workers are sought.

3           “(B) REQUIREMENT TO HIRE.—

4                 “(i) UNITED STATES WORKERS.—An  
5           employer may not seek a nonimmigrant ag-  
6           ricultural worker for agricultural employ-  
7           ment unless the employer offers such em-  
8           ployment to any equally or better qualified  
9           United States worker who will be available  
10          at the time and place of need and who ap-  
11          plies for such employment during the 45-  
12          day recruitment period referred to in sub-  
13          paragraph (A)(i).

14                 “(ii) EXCEPTION.—Notwithstanding  
15          clause (i), the employer may offer the job  
16          to a nonimmigrant agricultural worker in-  
17          stead of an alien in blue card status if—

18                         “(I) such worker was previously  
19                         employed by the employer as an H-  
20                         2A worker;

21                         “(II) such worker worked for the  
22                         employer for 3 years during the most  
23                         recent 4-year period; and

1                   “(III) the employer pays such  
2                   worker the adverse effect wage rate  
3                   calculated under subsection (f)(5)(B).

4                   “(4) ADDITIONAL PROGRAM REQUIREMENTS  
5                   FOR DESIGNATED AGRICULTURAL EMPLOYERS.—  
6                   Each designated agricultural employer shall comply  
7                   with the following requirements:

8                   “(A) NO DISPLACEMENT OF UNITED  
9                   STATES WORKERS.—

10                   “(i) IN GENERAL.—The employer  
11                   shall not displace a United States worker  
12                   employed by the employer, other than for  
13                   good cause, during the period of employ-  
14                   ment of the nonimmigrant agricultural  
15                   worker and for a period of 30 days pre-  
16                   ceding such period in the occupation and  
17                   at the location of employment for which  
18                   the employer seeks to employ non-  
19                   immigrant agricultural workers.

20                   “(ii) LABOR DISPUTE.—The employer  
21                   shall not employ a nonimmigrant agricul-  
22                   tural worker for a specific job for which  
23                   the employer is requesting a nonimmigrant  
24                   agricultural worker because the former oc-

1                   cupant of the job is on strike or being  
2                   locked out in the course of a labor dispute.

3                   “(B) GUARANTEE OF EMPLOYMENT FOR  
4                   CONTRACT AGRICULTURAL WORKERS.—

5                   “(i) OFFER TO CONTRACT WORKER.—

6                   The employer shall guarantee to offer con-  
7                   tract agricultural workers employment for  
8                   the hourly equivalent of at least 75 percent  
9                   of the work days of the total period of em-  
10                  ployment, beginning with the first work  
11                  day after the arrival of the worker at the  
12                  place of employment and ending on the ex-  
13                  piration date specified in the job offer. In  
14                  this clause, the term ‘hourly equivalent’  
15                  means the number of hours in the work  
16                  days as stated in the job offer and shall ex-  
17                  clude the worker’s Sabbath and Federal  
18                  holidays. If the employer affords the con-  
19                  tract agricultural worker less employment  
20                  than the number of hours required under  
21                  this subparagraph, the employer shall pay  
22                  such worker the amount the worker would  
23                  have earned had the worker worked the  
24                  guaranteed number of hours.

1                   “(ii) FAILURE TO WORK.—Any hours  
2                   which the worker fails to work, up to a  
3                   maximum of the number of hours specified  
4                   in the job offer for a work day, when the  
5                   worker has been offered an opportunity to  
6                   do so, and all hours of work actually per-  
7                   formed (including voluntary work in excess  
8                   of the number of hours specified in the job  
9                   offer in a work day, on the worker’s Sab-  
10                  bath, or on Federal holidays) may be  
11                  counted by the employer in calculating  
12                  whether the period of guaranteed employ-  
13                  ment has been met.

14                  “(iii) CONTRACT IMPOSSIBILITY.—If,  
15                  before the expiration of the period of em-  
16                  ployment specified in the job offer, the  
17                  services of a contract agricultural worker  
18                  are no longer required for reasons beyond  
19                  the control of the employer due to any  
20                  form of natural disaster, including a flood,  
21                  hurricane, freeze, earthquake, fire,  
22                  drought, plant or animal disease or pest  
23                  infestation, or regulatory drought, before  
24                  the guarantee in clause (i) is fulfilled, the  
25                  employer—



1                   “(I) may terminate the worker’s  
2                   employment;

3                   “(II) shall fulfill the employment  
4                   guarantee described in clause (i) for  
5                   the work days that have elapsed from  
6                   the first work day after the arrival of  
7                   the worker to the termination of em-  
8                   ployment;

9                   “(III) shall make efforts to  
10                  transfer the worker to other com-  
11                  parable employment acceptable to the  
12                  worker; and

13                  “(IV) if such a transfer does not  
14                  take place, shall provide the return  
15                  transportation required under sub-  
16                  paragraph (J).

17                  “(C) WORKERS’ COMPENSATION.—

18                  “(i) REQUIREMENT TO PROVIDE.—If  
19                  a job referred to in paragraph (3) is not  
20                  covered by the State workers’ compensa-  
21                  tion law, the employer shall provide, at no  
22                  cost to the nonimmigrant agricultural  
23                  worker, insurance covering injury and dis-  
24                  ease arising out of, and in the course of,  
25                  such job.

1                   “(ii) BENEFITS.—The insurance re-  
2                   quired to be provided under clause (i) shall  
3                   provide benefits at least equal to those pro-  
4                   vided under and pursuant to the State  
5                   workers’ compensation law for comparable  
6                   employment.

7                   “(D) PROHIBITION FOR USE FOR NON-  
8                   AGRICULTURAL SERVICES.—The employer may  
9                   not employ a nonimmigrant agricultural worker  
10                  for employment other than agricultural employ-  
11                  ment.

12                  “(E) WAGES.—The employer shall pay not  
13                  less than the wage required under subsection  
14                  (f).

15                  “(F) DEDUCTION OF WAGES.—The em-  
16                  ployer shall make only deductions from a non-  
17                  immigrant agricultural worker’s wages that are  
18                  authorized by law and are reasonable and cus-  
19                  tomary in the occupation and area of employ-  
20                  ment of such worker.

21                  “(G) REQUIREMENT TO PROVIDE HOUSING  
22                  OR A HOUSING ALLOWANCE.—

23                  “(i) IN GENERAL.—Except as pro-  
24                  vided in clauses (iv) and (v), a designated  
25                  agricultural employer shall offer to provide

1 a nonimmigrant agricultural worker with  
2 housing at no cost in accordance with  
3 clause (ii) or (iii).

4 “(ii) HOUSING.—An employer may  
5 provide housing to a nonimmigrant agricul-  
6 tural worker that meets—

7 “(I) applicable Federal standards  
8 for temporary labor camps; or

9 “(II) applicable local standards  
10 (or, in the absence of applicable local  
11 standards, State standards) for rental  
12 or public accommodation housing or  
13 other substantially similar class of  
14 habitation.

15 “(iii) HOUSING PAYMENTS.—

16 “(I) PUBLIC HOUSING.—If the  
17 employer arranges public housing for  
18 nonimmigrant agricultural workers  
19 through a State, county, or local gov-  
20 ernment program and such public  
21 housing units normally require pay-  
22 ments from tenants, such payments  
23 shall be made by the employer directly  
24 to the landlord.

1                   “(II) DEPOSITS.—Deposits for  
2 bedding or other similar incidentals  
3 related to housing shall not be col-  
4 lected from workers by employers who  
5 provide housing for such workers.

6                   “(III) DAMAGES.—The employer  
7 may require any worker who is re-  
8 sponsible for damage to housing that  
9 did not result from normal wear and  
10 tear related to habitation to reimburse  
11 the employer for the reasonable cost  
12 of repairing such damage.

13                   “(iv) HOUSING ALLOWANCE ALTER-  
14 NATIVE.—

15                   “(I) IN GENERAL.—The employer  
16 may provide a reasonable housing al-  
17 lowance instead of providing housing  
18 under clause (i). Upon the request of  
19 a worker seeking assistance in locat-  
20 ing housing, the employer shall make  
21 a good faith effort to assist the work-  
22 er in identifying and locating housing  
23 in the area of intended employment.  
24 An employer who offers a housing al-  
25 lowance to a worker or assists a work-

1           er in locating housing, which the  
2           worker occupies, shall not be deemed  
3           a housing provider under section 203  
4           of the Migrant and Seasonal Agricultural  
5           Worker Protection Act (29  
6           U.S.C. 1823) solely by virtue of providing  
7           such housing allowance. No  
8           housing allowance may be used for  
9           housing that is owned or controlled by  
10          the employer.

11                 “(II) CERTIFICATION REQUIRE-  
12           MENT.—Contract agricultural workers  
13           may only be provided a housing allow-  
14           ance if the Governor of the State in  
15           which the place of employment is lo-  
16           cated certifies to the Secretary that  
17           there is adequate housing available in  
18           the area of intended employment for  
19           migrant farm workers and contract  
20           agricultural workers who are seeking  
21           temporary housing while employed in  
22           agricultural work. Such certification  
23           shall expire after 3 years unless re-  
24           newed by the Governor of the State.

## 302

1 “(III) AMOUNT OF ALLOW-  
2 ANCE.—

3 “(aa) NONMETROPOLITAN  
4 COUNTIES.—If the place of em-  
5 ployment of the workers provided  
6 an allowance under this clause is  
7 a nonmetropolitan county, the  
8 amount of the housing allowance  
9 under this clause shall be equal  
10 to the average fair market rental  
11 for existing housing in nonmetro-  
12 politan counties in the State in  
13 which the place of employment is  
14 located, as established by the  
15 Secretary of Housing and Urban  
16 Development pursuant to section  
17 8(c) of the United States Hous-  
18 ing Act of 1937 (42 U.S.C.  
19 1437f(c)), based on a 2-bedroom  
20 dwelling unit and an assumption  
21 of 2 persons per bedroom.

22 “(bb) METROPOLITAN  
23 COUNTIES.—If the place of em-  
24 ployment of the workers provided  
25 an allowance under this clause is

1 a metropolitan county, the  
2 amount of the housing allowance  
3 under this clause shall be equal  
4 to the average fair market rental  
5 for existing housing in metropoli-  
6 tan counties in the State in  
7 which the place of employment is  
8 located, as established by the  
9 Secretary of Housing and Urban  
10 Development pursuant to section  
11 8(c) of the United States Hous-  
12 ing Act of 1937 (42 U.S.C.  
13 1437f(c)), based on a 2-bedroom  
14 dwelling unit and an assumption  
15 of 2 persons per bedroom.

16 “(v) EXCEPTION FOR COMMUTING  
17 WORKERS.—Nothing in this subparagraph  
18 may be construed to require an employer  
19 to provide housing or a housing allowance  
20 to workers who reside outside of the  
21 United States if their place of residence is  
22 within normal commuting distance and the  
23 job site is within 50 miles of an inter-  
24 national land border of the United States.

1           “(H) WORKSITE TRANSPORTATION FOR  
2 CONTRACT WORKERS.—During the period a  
3 designated agricultural employer employs a con-  
4 tract agricultural worker, such employer shall,  
5 at the employer’s option, provide or reimburse  
6 the contract agricultural worker for the cost of  
7 daily transportation from the contract worker’s  
8 living quarters to the contract agricultural  
9 worker’s place of employment.

10           “(I) REIMBURSEMENT OF TRANSPOR-  
11 TATION TO THE PLACE OF EMPLOYMENT.—

12           “(i) IN GENERAL.—A nonimmigrant  
13 agricultural worker shall be reimbursed by  
14 the first employer for the cost of the work-  
15 er’s transportation and subsistence from  
16 the place from which the worker came  
17 from to the place of first employment.

18           “(ii) LIMITATION.—The amount of re-  
19 imbursement provided under clause (i) to a  
20 worker shall not exceed the lesser of—

21           “(I) the actual cost to the worker  
22 of the transportation and subsistence  
23 involved; or

24           “(II) the most economical and  
25 reasonable common carrier transpor-



1                   tation charges and subsistence costs  
2                   for the distance involved.

3                   “(J) REIMBURSEMENT OF TRANSPOR-  
4 TATION FROM PLACE OF EMPLOYMENT.—

5                   “(i) IN GENERAL.—A contract agri-  
6 cultural worker who completes at least 27  
7 months under his or her contract with the  
8 same designated agricultural employer  
9 shall be reimbursed by that employer for  
10 the cost of the worker’s transportation and  
11 subsistence from the place of employment  
12 to the place from which the worker came  
13 from abroad to work for the employer.

14                   “(ii) LIMITATION.—The amount of re-  
15 imbursement required under clause (i)  
16 shall not exceed the lesser of—

17                   “(I) the actual cost to the worker  
18 of the transportation and subsistence  
19 involved; or

20                   “(II) the most economical and  
21 reasonable common carrier transpor-  
22 tation charges and subsistence costs  
23 for the distance involved.

24                   “(f) WAGES.—

25                   “(1) WAGE RATE REQUIREMENT.—

1           “(A) IN GENERAL.—A nonimmigrant agri-  
2           cultural worker employed by a designated agri-  
3           cultural employer shall be paid not less than the  
4           wage rate for such employment set forth in  
5           paragraph (3).

6           “(B) WORKERS PAID ON A PIECE RATE OR  
7           OTHER INCENTIVE BASIS.—If an employer pays  
8           by the piece rate or other incentive method and  
9           requires 1 or more minimum productivity  
10          standards as a condition of job retention, such  
11          standards shall be specified in the job offer and  
12          be no more than those which have been nor-  
13          mally required (at the time of the employee’s  
14          first application for designated employer status)  
15          by other employers for the activity in the geo-  
16          graphic area of the job, unless the Secretary  
17          approves a higher standard.

18          “(2) JOB CATEGORIES.—

19               “(A) IN GENERAL.—For purposes of para-  
20               graph (1), each nonimmigrant agricultural  
21               worker employed by such employer shall be as-  
22               signed to 1 of the following standard occupa-  
23               tional classifications, as defined by the Bureau  
24               of Labor Statistics:

1 “(i) First-Line Supervisors of Farm-  
2 ing, Fishing, and Forestry Workers (45–  
3 1011).

4 “(ii) Animal Breeders (45–2021).

5 “(iii) Graders and Sorters, Agricul-  
6 tural Products (45–2041).

7 “(iv) Agricultural equipment operator  
8 (45–2091).

9 “(v) Farmworkers and Laborers,  
10 Crop, Nursery, and Greenhouse (45–  
11 2092).

12 “(vi) Farmworkers, Farm, Ranch and  
13 Aquacultural Animals (45–2093).

14 “(B) DETERMINATION OF CLASSIFICA-  
15 TION.—A nonimmigrant agricultural worker is  
16 employed in a standard occupational classifica-  
17 tion described in clause (i), (ii), (iii), (iv), (v),  
18 or (vi) of subparagraph (A) if the worker per-  
19 forms activities associated with that occupa-  
20 tional classification, as specified on the employ-  
21 er’s petition, for at least 75 percent of the time  
22 in a semiannual employment period.

23 “(3) DETERMINATION OF WAGE RATE.—

24 “(A) CALENDAR YEARS 2014 THROUGH  
25 2016.—The wage rate under this subparagraph

1           for calendar years 2014 through 2016 shall be  
2           the higher of—

3                   “(i) the applicable Federal, State, or  
4                   local minimum wage; or

5                   “(ii)(I) for the category described in  
6                   paragraph (2)(A)(iii)—

7                           “(aa) \$9.37 for calendar year  
8                           2014;

9                           “(bb) \$9.60 for calendar year  
10                          2015; and

11                          “(cc) \$9.84 for calendar year  
12                          2016;

13                   “(II) for the category described in  
14                   paragraph (2)(A)(iv)—

15                           “(aa) \$11.30 for calendar year  
16                           2014;

17                           “(bb) \$11.58 for calendar year  
18                          2015; and

19                           “(cc) \$11.87 for calendar year  
20                          2016;

21                   “(III) for the category described in  
22                   paragraph (2)(A)(v)—

23                           “(aa) \$9.17 for calendar year  
24                          2014;

309

1 “(bb) \$9.40 for calendar year

2 2015; and

3 “(cc) \$9.64 for calendar year

4 2016; and

5 “(IV) for the category described in

6 paragraph (2)(A)(vi)—

7 “(aa) \$10.82 for calendar year

8 2014;

9 “(bb) \$11.09 for calendar year

10 2015; and

11 “(cc) \$11.37 for calendar year

12 2016.

13 “(B) SUBSEQUENT YEARS.—The Secretary

14 shall increase the hourly wage rates set forth in

15 clauses (i) through (iv) of subparagraph (A),

16 for each calendar year after the calendar years

17 described in subparagraph (A) by an amount

18 equal to—

19 “(i) 1.5 percent, if the percentage in-

20 crease in the Employment Cost Index for

21 wages and salaries during the previous cal-

22 endar year, as calculated by the Bureau of

23 Labor Statistics, is less than 1.5 percent;

24 “(ii) the percentage increase in such

25 Employment Cost Index, if such percent-

1                   age increase is between 1.5 percent and  
2                   2.5 percent, inclusive; or

3                   “(iii) 2.5 percent, if such percentage  
4                   increase is greater than 2.5 percent.

5                   “(C) AGRICULTURAL SUPERVISORS AND  
6                   ANIMAL BREEDERS.—Not later than September  
7                   1, 2015, and annually thereafter, the Secretary,  
8                   in consultation with the Secretary of Labor,  
9                   shall establish the required wage for the next  
10                  calendar year for each of the job categories set  
11                  out in clauses (i) and (ii) of paragraph (2)(A).

12                  “(D) SURVEY BY BUREAU OF LABOR STA-  
13                  TISTICS.—Not later than April 15, 2015, the  
14                  Bureau of Labor Statistics shall consult with  
15                  the Secretary to expand the Occupational Em-  
16                  ployment Statistics Survey to survey agricul-  
17                  tural producers and contractors and produce  
18                  improved wage data by State and the job cat-  
19                  egories set out in clauses (i) through (vi) of  
20                  subparagraph (A).

21                  “(4) CONSIDERATION.—In determining the  
22                  wage rate under paragraph (3)(C), the Secretary  
23                  may consider appropriate factors, including—

24                  “(A) whether the employment of additional  
25                  alien workers at the required wage will ad-

1           versely affect the wages and working conditions  
2           of workers in the United States similarly em-  
3           ployed;

4           “(B) whether the employment in the  
5           United States of an alien admitted under sec-  
6           tion 101(a)(15)(H)(ii)(a) or unauthorized aliens  
7           in the agricultural workforce has depressed  
8           wages of United States workers engaged in ag-  
9           ricultural employment below the levels that  
10          would otherwise have prevailed if such aliens  
11          had not been employed in the United States;

12          “(C) whether wages of agricultural workers  
13          are sufficient to support such workers and their  
14          families at a level above the poverty thresholds  
15          determined by the Bureau of Census;

16          “(D) the wages paid workers in the United  
17          States who are not employed in agricultural em-  
18          ployment but who are employed in comparable  
19          employment;

20          “(E) the continued exclusion of employers  
21          of nonimmigrant alien workers in agriculture  
22          from the payment of taxes under chapter 21 of  
23          the Internal Revenue Code of 1986 (26 U.S.C.  
24          3101 et seq.) and chapter 23 of such Code (26  
25          U.S.C. 3301 et seq.);

1           “(F) the impact of farm labor costs in the  
2           United States on the movement of agricultural  
3           production to foreign countries;

4           “(G) a comparison of the expenses and  
5           cost structure of foreign agricultural producers  
6           to the expenses incurred by agricultural pro-  
7           ducers based in the United States; and

8           “(H) the accuracy and reliability of the  
9           Occupational Employment Statistics Survey.

10          “(5) ADVERSE EFFECT WAGE RATE.—

11           “(A) PROHIBITION OF MODIFICATION.—  
12           The adverse effect wage rates in effect on April  
13           15, 2013, for nonimmigrants admitted under  
14           101(a)(15)(H)(ii)(a)—

15           “(i) shall remain in effect until the  
16           date described in section 2233 of the Agri-  
17           cultural Worker Program Act of 2013; and

18           “(ii) may not be modified except as  
19           provided in subparagraph (B).

20           “(B) EXCEPTION.—Until the Secretary es-  
21           tablishes the wage rates required under para-  
22           graph (3)(C), the adverse effect wage rates in  
23           effect on the date of the enactment of the Agri-  
24           cultural Worker Program Act of 2013 shall  
25           be—



1 “(i) deemed to be such wage rates;

2 and

3 “(ii) after September 1, 2015, ad-  
4 justed annually in accordance with para-  
5 graph (3)(B).

6 “(C) NONPAYMENT OF FICA AND FUTA  
7 TAXES.—An employer employing nonimmigrant  
8 agricultural workers shall not be required to  
9 pay and withhold from such workers—

10 “(i) the tax required under section  
11 3101 of the Internal Revenue Code of  
12 1986; or

13 “(ii) the tax required under section  
14 3301 of the Internal Revenue Code of  
15 1986.

16 “(6) PREFERENTIAL TREATMENT OF ALIENS  
17 PROHIBITED.—

18 “(A) IN GENERAL.—Except as provided in  
19 subparagraph (B), employers seeking to hire  
20 United States workers shall offer the United  
21 States workers not less than the same benefits,  
22 wages, and working conditions that the em-  
23 ployer is offering, intends to offer, or will pro-  
24 vide to nonimmigrant agricultural workers. No  
25 job offer may impose on United States workers

1           any restrictions or obligations that will not be  
2           imposed on the employer’s nonimmigrant agri-  
3           cultural workers.

4                   “(B) EXCEPTION.—Notwithstanding sub-  
5           paragraph (A), a designated agricultural em-  
6           ployer is not required to provide housing or a  
7           housing allowance to United States workers.

8           “(g) WORKER PROTECTIONS AND DISPUTE RESOLU-  
9   TION.—

10                   “(1) EQUALITY OF TREATMENT.—Non-  
11           immigrant agricultural workers shall not be denied  
12           any right or remedy under any Federal, State, or  
13           local labor or employment law applicable to United  
14           States workers engaged in agricultural employment.

15                   “(2) APPLICABILITY OF THE MIGRANT AND  
16           SEASONAL AGRICULTURAL WORKER PROTECTION  
17           ACT.—

18                   “(A) MIGRANT AND SEASONAL AGRICUL-  
19           TURAL WORKER PROTECTION ACT.—Non-  
20           immigrant agricultural workers shall be consid-  
21           ered migrant agricultural workers for purposes  
22           of the Migrant and Seasonal Agricultural Work-  
23           er Protection Act (29 U.S.C. 1801 et seq.).

24                   “(B) ELIGIBILITY OF NONIMMIGRANT AG-  
25           RICULTURAL WORKERS FOR CERTAIN LEGAL

1 ASSISTANCE.—A nonimmigrant agricultural  
2 worker shall be considered to be lawfully admit-  
3 ted for permanent residence for purposes of es-  
4 tablishing eligibility for legal services under the  
5 Legal Services Corporation Act (42 U.S.C.  
6 2996 et seq.) on matters relating to wages,  
7 housing, transportation, and other employment  
8 rights.

9 “(C) MEDIATION.—

10 “(i) FREE MEDIATION SERVICES.—  
11 The Federal Mediation and Conciliation  
12 Service shall be available to assist in re-  
13 solving disputes arising under this section  
14 between nonimmigrant agricultural work-  
15 ers and designated agricultural employers  
16 without charge to the parties.

17 “(ii) COMPLAINT.—If a nonimmigrant  
18 agricultural worker files a complaint under  
19 section 504 of the Migrant and Seasonal  
20 Agricultural Worker Protection Act (29  
21 U.S.C. 1854), not later than 60 days after  
22 the filing of proof of service of the com-  
23 plaint, a party to the action may file a re-  
24 quest with the Federal Mediation and Con-  
25 ciliation Service to assist the parties in

1 reaching a satisfactory resolution of all  
2 issues involving all parties to the dispute.

3 “(iii) NOTICE.—Upon filing a request  
4 under clause (ii) and giving of notice to the  
5 parties, the parties shall attempt mediation  
6 within the period specified in clause (iv).

7 “(iv) 90-DAY LIMIT.—The Federal  
8 Mediation and Conciliation Service may  
9 conduct mediation or other nonbinding dis-  
10 pute resolution activities for a period not  
11 to exceed 90 days beginning on the date on  
12 which the Federal Mediation and Concilia-  
13 tion Service receives a request for assist-  
14 ance under clause (ii) unless the parties  
15 agree to an extension of such period.

16 “(v) AUTHORIZATION OF APPROPRIA-  
17 TIONS.—

18 “(I) IN GENERAL.—Subject to  
19 clause (II), there are authorized to be  
20 appropriated to the Federal Mediation  
21 and Conciliation Service \$500,000 for  
22 each fiscal year to carry out this sub-  
23 paragraph.

24 “(II) MEDIATION.—Notwith-  
25 standing any other provision of law,

1 the Director of the Federal Mediation  
2 and Conciliation Service is author-  
3 ized—

4 “(aa) to conduct the medi-  
5 ation or other dispute resolution  
6 activities from any other account  
7 containing amounts available to  
8 the Director; and

9 “(bb) to reimburse such ac-  
10 count with amounts appropriated  
11 pursuant to subclause (I).

12 “(vi) PRIVATE MEDIATION.—If all  
13 parties agree, a private mediator may be  
14 employed as an alternative to the Federal  
15 Mediation and Conciliation Service.

16 “(3) OTHER RIGHTS.—Nonimmigrant agricul-  
17 tural workers shall be entitled to the rights granted  
18 to other classes of aliens under sections 242(h) and  
19 245E.

20 “(4) WAIVER OF RIGHTS.—Agreements by non-  
21 immigrant agricultural workers to waive or modify  
22 any rights or protections under this section shall be  
23 considered void or contrary to public policy except as  
24 provided in a collective bargaining agreement with a  
25 bona fide labor organization.

1 “(h) ENFORCEMENT AUTHORITY.—

2 “(1) INVESTIGATION OF COMPLAINTS.—

3 “(A) AGGRIEVED PERSON OR THIRD-PARTY  
4 COMPLAINTS.—

5 “(i) PROCESS.—The Secretary of  
6 Labor shall establish a process for the re-  
7 ceipt, investigation, and disposition of com-  
8 plaints respecting a designated agricultural  
9 employer’s failure to meet a condition spec-  
10 ified in subsection (e), or an employer’s  
11 misrepresentation of material facts in a pe-  
12 tition under subsection (e)(2).

13 “(ii) FILING.—Any aggrieved person  
14 or organization, including bargaining rep-  
15 resentatives, may file a complaint referred  
16 to in clause (i) not later than 1 year after  
17 the date of the failure or misrepresenta-  
18 tion, respectively.

19 “(iii) INVESTIGATION OR HEARING.—  
20 The Secretary of Labor shall conduct an  
21 investigation if there is reasonable cause to  
22 believe that such failure or misrepresenta-  
23 tion has occurred.

24 “(B) DETERMINATION ON COMPLAINT.—

25 Under such process, the Secretary of Labor

1           shall provide, not later than 30 days after the  
2           date on which such a complaint is filed, for a  
3           determination as to whether or not a reasonable  
4           basis exists to make a finding described in sub-  
5           paragraph (C), (D), (E), or (F). If the Sec-  
6           retary of Labor determines that such a reason-  
7           able basis exists, the Secretary of Labor shall  
8           provide for notice of such determination to the  
9           interested parties and an opportunity for a  
10          hearing on the complaint, in accordance with  
11          section 556 of title 5, United States Code, with-  
12          in 60 days after the date of the determination.  
13          If such a hearing is requested, the Secretary of  
14          Labor shall make a finding concerning the mat-  
15          ter not later than 60 days after the date of the  
16          hearing. In the case of similar complaints re-  
17          specting the same applicant, the Secretary of  
18          Labor may consolidate the hearings under this  
19          subparagraph on such complaints.

20               “(C) FAILURE TO MEET CONDITIONS.—If  
21          the Secretary of Labor finds, after notice and  
22          opportunity for a hearing, a failure to meet a  
23          condition under subsection (e) or (f), or a mate-  
24          rial misrepresentation of fact in a petition  
25          under subsection (e)(2)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

8 “(ii) the Secretary may disqualify the  
9 designated agricultural employer from the  
10 employment of nonimmigrant agricultural  
11 workers for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition under subsection (e) or (f) or a willful misrepresentation of a material fact in an registration or petition under paragraph (1) or (2) of subsection (e)—

20 “(i) the Secretary of Labor shall no-  
21 tify the Secretary of such finding and may,  
22 in addition, impose such other administra-  
23 tive remedies (including civil money pen-  
24 alties in an amount not to exceed \$5,000



1 per violation) as the Secretary of Labor  
2 determines to be appropriate;

3 “(ii) the Secretary of Labor may seek  
4 appropriate legal or equitable relief; and

5 “(iii) the Secretary may disqualify the  
6 designated agricultural employer from the  
7 employment of nonimmigrant agricultural  
8 workers for a period of 2 years.

9 “(E) DISPLACEMENT OF UNITED STATES  
10 WORKERS.—If the Secretary of Labor finds,  
11 after notice and opportunity for hearing, a will-  
12 ful failure to meet a condition under subsection  
13 (e) or (f) or a willful misrepresentation of a ma-  
14 terial fact in an registration or petition under  
15 paragraph (1) or (2) of subsection (e), in the  
16 course of which failure or misrepresentation the  
17 employer displaced a United States worker em-  
18 ployed by the employer during the period of em-  
19 ployment on the employer’s petition under sub-  
20 section (e)(2) or during the period of 30 days  
21 preceding such period of employment—

22 “(i) the Secretary of Labor shall no-  
23 tify the Secretary of such finding and may,  
24 in addition, impose such other administra-  
25 tive remedies (including civil money pen-

1 alties in an amount not to exceed \$15,000  
2 per violation) as the Secretary of Labor  
3 determines to be appropriate; and

4 “(ii) the Secretary may disqualify the  
5 employer from the employment of non-  
6 immigrant agricultural workers for a pe-  
7 riod of 3 years.

8 “(F) FAILURES TO PAY WAGES OR RE-  
9 QUIRED BENEFITS.—If the Secretary of Labor  
10 finds, after notice and opportunity for a hear-  
11 ing, that the employer has failed to pay the  
12 wages, or provide the housing allowance, trans-  
13 portation, subsistence reimbursement, or guar-  
14 antee of employment required under subsections  
15 (e)(4) and (f), the Secretary of Labor shall as-  
16 sess payment of back wages, or other required  
17 benefits, due any United States worker or non-  
18 immigrant agricultural worker employed by the  
19 employer in the specific employment in ques-  
20 tion. The back wages or other required benefits  
21 required under subsections (e) and (f) shall be  
22 equal to the difference between the amount that  
23 should have been paid and the amount that ac-  
24 tually was paid to such worker.

1                   “(G) DISPOSITION OF PENALTIES.—Civil  
2                   penalties collected under this paragraph shall be  
3                   deposited into the Comprehensive Immigration  
4                   Reform Trust Fund established under section  
5                   6(a)(1) of the Border Security, Economic Op-  
6                   portunity, and Immigration Modernization Act.

7                   “(2) LIMITATIONS ON CIVIL MONEY PEN-  
8                   ALTIES.—The Secretary of Labor shall not impose  
9                   total civil money penalties with respect to a petition  
10                  under subsection (e)(2) in excess of \$90,000.

11                  “(3) ELECTION.—A nonimmigrant agricultural  
12                  worker who has filed an administrative complaint  
13                  with the Secretary of Labor may not maintain a civil  
14                  action unless a complaint based on the same viola-  
15                  tion filed with the Secretary of Labor under para-  
16                  graph (1) is withdrawn before the filing of such ac-  
17                  tion, in which case the rights and remedies available  
18                  under this subsection shall be exclusive.

19                  “(4) PRECLUSIVE EFFECT.—Any settlement by  
20                  a nonimmigrant agricultural worker, a designated  
21                  agricultural employer, or any person reached  
22                  through the mediation process required under sub-  
23                  section (g)(2)(C) shall preclude any right of action  
24                  arising out of the same facts between the parties in  
25                  any Federal or State court or administrative pro-

1       ceeding, unless specifically provided otherwise in the  
2       settlement agreement.

3           “(5) SETTLEMENTS.—Any settlement by the  
4       Secretary of Labor with a designated agricultural  
5       worker on behalf of a nonimmigrant agricultural  
6       worker of a complaint filed with the Secretary of  
7       Labor under this section or any finding by the Sec-  
8       retary of Labor under this subsection shall preclude  
9       any right of action arising out of the same facts be-  
10      tween the parties under any Federal or State court  
11      or administrative proceeding, unless specifically pro-  
12      vided otherwise in the settlement agreement.

13          “(6) STATUTORY CONSTRUCTION.—Nothing in  
14      this subsection may be construed as limiting the au-  
15      thority of the Secretary of Labor to conduct any  
16      compliance investigation under any other labor law,  
17      including any law affecting migrant and seasonal ag-  
18      ricultural workers, or, in the absence of a complaint  
19      under this section.

20          “(7) DISCRIMINATION PROHIBITED.—It is a  
21      violation of this subsection for any person who has  
22      filed a petition under subsection (e) or (f) to intimi-  
23      date, threaten, restrain, coerce, blacklist, discharge,  
24      or in any other manner discriminate against an em-

1        ployee, including a former employee or an applicant  
2        for employment, because the employee—

3                “(A) has disclosed information to the em-  
4                ployer, or to any other person, that the em-  
5                ployee reasonably believes evidences a violation  
6                of subsection (e) or (f), or any rule or regula-  
7                tion relating to subsection (e) or (f); or

8                “(B) cooperates or seeks to cooperate in an  
9                investigation or other proceeding concerning the  
10              employer’s compliance with the requirements  
11              under subsection (e) or (f) or any rule or regu-  
12              lation pertaining to subsection (e) or (f).

13        “(8) ROLE OF ASSOCIATIONS.—

14              “(A) VIOLATION BY A MEMBER OF AN AS-  
15              SOCIATION.—

16              “(i) IN GENERAL.—If an association  
17              acting as the agent of an employer files an  
18              application on behalf of such employer, the  
19              employer is fully responsible for such appli-  
20              cation, and for complying with the terms  
21              and conditions of subsection (e). If such an  
22              employer is determined to have violated  
23              any requirement described in this sub-  
24              section, the penalty for such violation shall

1           apply only to that employer except as pro-  
2           vided in clause (ii).

3           “(ii) COLLECTIVE RESPONSIBILITY.—

4           If the Secretary of Labor determines that  
5           the association or other members of the as-  
6           sociation participated in, had knowledge of,  
7           or reason to know of a violation described  
8           in clause (i), the penalty shall also be in-  
9           voked against the association and complicit  
10          association members.

11          “(B) VIOLATIONS BY AN ASSOCIATION  
12          ACTING AS AN EMPLOYER.—

13               “(i) IN GENERAL.—If an association  
14               filing an application as a sole or joint em-  
15               ployer is determined to have violated any  
16               requirement described in this section, the  
17               penalty for such violation shall apply only  
18               to the association except as provided in  
19               clause (ii).

20               “(ii) MEMBER RESPONSIBILITY.—If  
21               the Secretary of Labor determines that 1  
22               or more association members participated  
23               in, had knowledge of, or reason to know of  
24               the violation described in clause (i), the

1                   penalty shall be invoked against all  
2                   complicit association members.

3           “(i) SPECIAL NONIMMIGRANT VISA PROCESSING AND  
4 WAGE DETERMINATION PROCEDURES FOR CERTAIN AG-  
5 RICULTURAL OCCUPATIONS.—

6                   “(1) FINDING.—Certain industries possess  
7 unique occupational characteristics that necessitate  
8 the Secretary of Agriculture to adopt special proce-  
9 dures relating to housing, pay, and visa program ap-  
10 plication requirements for those industries.

11                   “(2) SPECIAL PROCEDURES INDUSTRY DE-  
12 FINED.—In this subsection, the term ‘Special Proce-  
13 dures Industry’ means—

14                           “(A) shepherding and goat herding;

15                           “(B) itinerant commercial beekeeping and  
16 pollination;

17                           “(C) open range production of livestock;

18                           “(D) itinerant animal shearing; and

19                           “(E) custom combining industries.

20                   “(3) WORK LOCATIONS.—The Secretary shall  
21 allow designated agricultural employers in a Special  
22 Procedures Industry that do not operate in a single  
23 fixed-site location to provide, as part of its registra-  
24 tion or petition under the Program, a list of antici-  
25 pated work locations, which—

1                   “(A) may include an anticipated itinerary;  
2                   and

3                   “(B) may be subsequently amended by the  
4                   employer, after notice to the Secretary.

5                   “(4) WAGE RATES.—The Secretary may estab-  
6                   lish monthly, weekly, or biweekly wage rates for oc-  
7                   cupations in a Special Procedures Industry for a  
8                   State or other geographic area. For an employer in  
9                   those Special Procedures Industries that typically  
10                  pay a monthly wage, the Secretary shall require that  
11                  workers will be paid not less frequently than month-  
12                  ly and at a rate no less than the legally required  
13                  monthly cash wage for such employer as of the date  
14                  of the enactment of the Border Security, Economic  
15                  Opportunity, and Immigration Modernization Act  
16                  and in an amount as re-determined annually by the  
17                  Secretary of Agriculture through rulemaking.

18                  “(5) HOUSING.—The Secretary shall allow for  
19                  the provision of housing or a housing allowance by  
20                  employers in Special Procedures Industries and  
21                  allow housing suitable for workers employed in re-  
22                  mote locations.

23                  “(6) ALLERGY LIMITATION.—An employer en-  
24                  gaged in the commercial beekeeping or pollination  
25                  services industry may require that an applicant be



1 free from bee pollen, venom, or other bee-related al-  
2 lergies.

3 “(7) APPLICATION.—An individual employer in  
4 a Special Procedures Industry may file a program  
5 petition on its own behalf or in conjunction with an  
6 association of employers. The employer’s petition  
7 may be part of several related petitions submitted si-  
8 multaneously that constitute a master petition.

9 “(8) RULEMAKING.—The Secretary or, as ap-  
10 propriate, the Secretary of Homeland Security or  
11 the Secretary of Labor, after consultation with em-  
12 ployers and employee representatives, shall publish  
13 for notice and comment proposed regulations relat-  
14 ing to housing, pay, and application procedures for  
15 Special Procedures Industries.

16 “(j) MISCELLANEOUS PROVISIONS.—

17 “(1) DISQUALIFICATION OF NONIMMIGRANT AG-  
18 RICULTURAL WORKERS FROM FINANCIAL ASSIST-  
19 ANCE.—An alien admitted as a nonimmigrant agri-  
20 cultural worker is not eligible for any program of fi-  
21 nancial assistance under Federal law (whether  
22 through grant, loan, guarantee, or otherwise) on the  
23 basis of financial need, as such programs are identi-  
24 fied by the Secretary in consultation with other  
25 agencies of the United States.

1 “(2) MONITORING REQUIREMENT.—

2 “(A) IN GENERAL.—The Secretary shall  
3 monitor the movement of nonimmigrant agricul-  
4 tural workers through—

5 “(i) the Employment Verification Sys-  
6 tem described in section 274A(b); and

7 “(ii) the electronic monitoring system  
8 established pursuant to subparagraph (B).

9 “(B) ELECTRONIC MONITORING SYSTEM.—  
10 Not later than 2 years after the effective date  
11 of this section, the Secretary of Homeland Se-  
12 curity, through the Director of U.S. Citizenship  
13 and Immigration Services, shall establish an  
14 electronic monitoring system, which shall—

15 “(i) be modeled on the Student and  
16 Exchange Visitor Information System  
17 (SEVIS) and the SEVIS II tracking sys-  
18 tem administered by U.S. Immigration and  
19 Customs Enforcement;

20 “(ii) monitor the presence and em-  
21 ployment of nonimmigrant agricultural  
22 workers; and

23 “(iii) assist in ensuring the compli-  
24 ance of designated agricultural employers

1                   and nonimmigrant agricultural workers  
2                   with the requirements of the Program.”.

(b) RULEMAKING.—The Secretary of Agriculture shall issue regulations to carry out section 218A of the Immigration and Nationality Act, as added by subsection (a), not later than 1 year after the date of the enactment of this Act.

8 (c) CLERICAL AMENDMENT.—The table of contents  
9 is amended by inserting after the item relating to section  
10 218 the following:

“Sec. 218A. Nonimmigrant agricultural worker program.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2014.

**13 SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM.**

14 (a) SUNSET OF PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year after the date on which the regulations issued pursuant to section 2241(b) become effective.

(2) EXCEPTION.—An employer may employ an alien described in paragraph (1) for the shorter of—

24 (A) 10 months; or

25 (B) the time specified in the position.

1 (b) CONFORMING AMENDMENTS.—

2 (1) REPEAL OF H-2A NONIMMIGRANT CAT-  
3 EGORY.—Section 101(a)(15)(H)(ii) (8 U.S.C.  
4 1101(a)(15)(H)(ii)) is amended by striking sub-  
5 clause (a).

6 (2) REPEAL OF ADMISSION REQUIREMENTS FOR  
7 H-2A WORKER.—Section 218 (8 U.S.C. 1188) is re-  
8 pealed.

9 (3) CONFORMING AMENDMENTS.—

10 (A) AMENDMENT OF PETITION REQUIRE-  
11 MENTS.—Section 214(c)(1) (8 U.S.C.  
12 1184(c)(1)) is amended by striking “For pur-  
13 poses of this subsection” and all that follows.

14 (B) CLERICAL AMENDMENT.—The table of  
15 contents is amended by striking the item relat-  
16 ing to section 218.

17 (4) EFFECTIVE DATE.—The amendments made  
18 by this subsection shall take effect on the date that  
19 is 1 year after the effective date of the regulations  
20 issued pursuant to section 2241(b).

21 **SEC. 2234. REPORTS TO CONGRESS ON NONIMMIGRANT AG-**  
22 **RICULTURAL WORKERS.**

23 (a) ANNUAL REPORT BY SECRETARY OF AGRI-  
24 CULTURE.—Not later than September 30 of each year, the  
25 Secretary of Agriculture shall submit a report to Congress

1 that identifies, for the previous year, the number,  
2 disaggregated by State and by occupation, of—

3 (1) job opportunities approved for employment  
4 of aliens admitted pursuant to clause (iii) or clause  
5 (iv) of section 101(a)(15)(W) of the Immigration  
6 and Nationality Act, as added by section 2231; and

7 (2) aliens actually admitted pursuant to each  
8 such clause.

9 (b) ANNUAL REPORT BY SECRETARY OF HOMELAND  
10 SECURITY.—Not later than September 30 of each year,  
11 the Secretary shall submit a report to Congress that iden-  
12 tifies, for the previous year, the number of aliens described  
13 in subsection (a)(2) who—

14 (1) violated the terms of the nonimmigrant ag-  
15 ricultural worker program established under section  
16 218A(b) of the Immigration and Nationality Act, as  
17 added by section 2232; and

18 (2) have not departed from the United States.

## 19 **CHAPTER 3—OTHER PROVISIONS**

### 20 **SEC. 2241. RULEMAKING.**

21 (a) CONSULTATION REQUIREMENT.—In the course of  
22 promulgating any regulation necessary to implement this  
23 subtitle, or the amendments made by this subtitle, the Sec-  
24 retary, the Secretary of Agriculture, the Secretary of

1 Labor, and the Secretary of State shall regularly consult  
2 with each other.

3 (b) DEADLINE FOR ISSUANCE OF REGULATIONS.—

4 Except as provided in section 2232(b), all regulations to  
5 implement this subtitle and the amendments made by this  
6 subtitle shall be issued not later than 6 months after the  
7 date of the enactment of this Act.

8 **SEC. 2242. REPORTS TO CONGRESS.**

9 Not later than 180 days after the date of the enact-  
10 ment of this Act, the Secretary and the Secretary of Agri-  
11 culture shall jointly submit a report to Congress that de-  
12 scribes the measures being taken and the progress made  
13 in implementing this subtitle and the amendments made  
14 by this subtitle.

15 **SEC. 2243. BENEFITS INTEGRITY PROGRAMS.**

16 (a) IN GENERAL.—Without regard to whether per-  
17 sonal interviews are conducted in the adjudication of bene-  
18 fits provided for by section 210A, 218A, 245B, 245C,  
19 245D, 245E, or 245F of the Immigration and Nationality  
20 Act, or in seeking a benefit under section 101(a)(15)(U)  
21 of the Immigration and Nationality Act, section 1242 of  
22 the Refugee Crisis in Iraq Act of 2007 (8 U.S.C. 1157  
23 note), section 602(b) of the Afghan Allies Protection Act  
24 of 2009 (8 U.S.C. 1101 note), or section 2211 of this Act,  
25 the Secretary shall uphold and maintain the integrity of

1 those benefits by carrying out for each of them, within  
2 the Fraud Detection and National Security Directorate of  
3 U.S. Citizenship and Immigration Services, programs as  
4 follows:

5 (1) A benefit fraud assessment program to  
6 quantify fraud rates, detect ongoing fraud trends,  
7 and develop appropriate countermeasures, including  
8 through a random sample of both pending and com-  
9 pleted cases.

10 (2) A compliance review program, including site  
11 visits, to identify frauds and deter fraudulent and il-  
12 legal activities.

13 (b) REPORTS.—

14 (1) IN GENERAL.—Not later than 90 days after  
15 the date of the enactment of this Act, U.S. Citizen-  
16 ship and Immigration Services shall annually submit  
17 to Congress a report on the programs carried out  
18 pursuant to subsection (a).

19 (2) ELEMENTS IN FIRST REPORT.—The initial  
20 report submitted under paragraph (1) shall include  
21 the methodologies to be used by the Fraud Detection  
22 and National Security Directorate for each of the  
23 programs specified in paragraphs (1) and (2) of sub-  
24 section (a).

1           (3) ELEMENTS IN SUBSEQUENT REPORTS.—

2       Each subsequent report under paragraph (1) shall  
3       include, for the calendar year covered by such re-  
4       port, a descriptions of examples of fraud detected,  
5       fraud rates for programs and types of applicants,  
6       and a description of the disposition of the cases in  
7       which fraud was detected or suspected.

8       (c) USE OF FINDINGS OF FRAUD.—Any instance of  
9       fraud or abuse detected pursuant to a program carried  
10      out pursuant to subsection (a) may be used to deny or  
11      revoke benefits, and may also be referred to U.S. Immi-  
12      gration and Customs Enforcement for investigation of  
13      criminal violations of section 266 of the Immigration and  
14      Nationality Act (8 U.S.C. 1306).

15      (d) FUNDING.—There are authorized to be appro-  
16      priated, from the Comprehensive Immigration Reform  
17      Trust Fund established under section 6(a)(1), such sums  
18      as may be necessary to carry out this section.

19   **SEC. 2244. EFFECTIVE DATE.**

20      This subtitle and the amendments made by this sub-  
21      title, except for sections 2231, 2232, and 2233, shall take  
22      effect on the date on which the regulations required under  
23      section 2241 are issued, regardless of whether such regu-  
24      lations are issued on an interim basis or on any other  
25      basis.



1       **Subtitle C—Future Immigration**

2       **SEC. 2301. MERIT-BASED POINTS TRACK ONE.**

3           (a) IN GENERAL.—

4               (1) WORLDWIDE LEVEL OF MERIT-BASED IMMI-  
5       GRANTS.—Section 201(e) (8 U.S.C. 1151(e)) is  
6       amended to read as follows:

7       “(e) WORLDWIDE LEVEL OF MERIT-BASED IMMI-  
8       GRANTS.—

9               “(1) IN GENERAL.—

10               “(A) NUMERICAL LIMITATION.—Subject to  
11       paragraphs (2), (3), and (4), the worldwide  
12       level of merit-based immigrants is equal to  
13       120,000 for each fiscal year.

14               “(B) STATUS.—An alien admitted on the  
15       basis of a merit-based immigrant visa under  
16       this section shall have the status of an alien  
17       lawfully admitted for permanent residence.

18               “(2) ANNUAL INCREASE.—

19               “(A) IN GENERAL.—Subject to subpara-  
20       graph (B) and paragraph (3), if in any fiscal  
21       year the worldwide level of visas available for  
22       merit-based immigrants under this section—

23               “(i) is less than 75 percent of the  
24       number of applicants for such fiscal year,

1 the worldwide level shall increase by 5 per-  
2 cent for the next fiscal year; and

3 “(ii) is equal to or more than 75 per-  
4 cent of such number, the worldwide level  
5 for the next fiscal year shall be the same  
6 as the worldwide level for such fiscal year,  
7 minus any amount added to the worldwide  
8 level for such fiscal year under paragraph  
9 (4).

10 “(B) LIMITATION ON INCREASE.—The  
11 worldwide level of visas available for merit-  
12 based immigrants shall not exceed 250,000.

13 “(3) EMPLOYMENT CONSIDERATION.—The  
14 worldwide level of visas available for merit-based im-  
15 migrants may not be increased for a fiscal year  
16 under paragraph (2) if the annual average unem-  
17 ployment rate for the civilian labor force 18 years or  
18 over in the United States, as determined by the Bu-  
19 reau of Labor Statistics, for such previous fiscal  
20 year is more than 8½ percent.

21 “(4) RECAPTURE OF UNUSED VISAS.—The  
22 worldwide level of merit-based immigrants described  
23 in paragraph (1) for a fiscal year shall be increased  
24 by the difference (if any) between the worldwide  
25 level established under paragraph (1) for the pre-

1        vious fiscal year and the number of visas actually  
2        issued under this subsection during that fiscal year.  
3        Such visas shall be allocated for the following year  
4        pursuant to section 203(c)(3).”.

5            (2) MERIT-BASED IMMIGRANTS.—Section 203  
6        (8 U.S.C. 1153) is amended by inserting after sub-  
7        section (b) the following:

8        “(c) MERIT-BASED IMMIGRANTS.—

9            “(1) FISCAL YEARS 2015 THROUGH 2017.—Dur-  
10        ing each of the fiscal years 2015 through 2017, the  
11        worldwide level of merit-based immigrant visas made  
12        available under section 201(e)(1) shall be available  
13        for aliens described in section 203(b)(3) and in addi-  
14        tion to any visas available for such aliens under such  
15        section.

16            “(2) SUBSEQUENT FISCAL YEARS.—During fis-  
17        cal year 2018 and each subsequent fiscal year, aliens  
18        subject to the worldwide level specified in section  
19        201(e) for merit-based immigrants shall be allocated  
20        as follows:

21            “(A) 50 percent shall be available to appli-  
22        cants with the highest number of points allo-  
23        cated under tier 1 in paragraph (4).

1           “(B) 50 percent shall be available to appli-  
2           cants with the highest number of points allo-  
3           cated under tier 2 in paragraph (5).

4           “(3) UNUSED VISAS.—If the total number of  
5           visas allocated to tier 1 or tier 2 for a fiscal year  
6           are not granted during that fiscal year, such number  
7           may be added to the number of visas available under  
8           section 201(e)(1) for the following fiscal year and al-  
9           located as follows:

10           “(A) If the unused visas were allocated for  
11           tier 1 in a fiscal year,  $\frac{2}{3}$  of such visas shall be  
12           available for aliens allocated visas under tier 1  
13           in the following fiscal year and  $\frac{1}{3}$  of such visas  
14           shall be available for aliens allocated visas  
15           under either tier 1 or tier 2 in the following fis-  
16           cal year.

17           “(B) If the unused visas were allocated for  
18           tier 2 in a fiscal year,  $\frac{2}{3}$  of such visas shall be  
19           available for aliens allocated visas under tier 2  
20           in the following fiscal year and  $\frac{1}{3}$  of such visas  
21           shall be available for aliens allocated visas  
22           under either tier 1 or tier 2 in the following fis-  
23           cal year.

1           “(4) TIER 1.—The Secretary shall allocate  
2           points to each alien seeking to be a tier 1 merit-  
3           based immigrant as follows:

4                   “(A) EDUCATION.—

5                           “(i) IN GENERAL.—An alien may re-  
6                           ceive points under only 1 of the following  
7                           categories:

8                                   “(I) An alien who has received a  
9                                   doctorate degree from an institution  
10                                  of higher education in the United  
11                                  States or the foreign equivalent shall  
12                                  be allocated 15 points.

13                                   “(II) An alien who has received a  
14                                   master’s degree from an institution of  
15                                   higher education in the United States  
16                                   or the foreign equivalent shall be allo-  
17                                   cated 10 points.

18                                   “(ii) An alien who has received a  
19                                   bachelor’s degree from an institution of  
20                                   higher education (as defined in section  
21                                   101(a) of the Higher Education Act of  
22                                   1965 (20 U.S.C. 1001(a)) shall be allo-  
23                                   cated 5 points.

1           “(B) EMPLOYMENT EXPERIENCE.—An  
2           alien shall be allocated not more than 20 points  
3           as follows:

4                   “(i) 3 points for each year the alien  
5                   has been lawfully employed in a zone 5 oc-  
6                   cupation in the United States.

7                   “(ii) 2 points for each year the alien  
8                   has been lawfully employed in a zone 4 oc-  
9                   cupation in the United States.

10           “(C) EMPLOYMENT RELATED TO EDU-  
11           CATION.—An alien who is in the United States  
12           and is employed full-time or has an offer of full-  
13           time employment in a field related to the alien’s  
14           education—

15                   “(i) in a zone 5 occupation shall be al-  
16                   located 10 points; or

17                   “(ii) in a zone 4 occupation shall be  
18                   allocated 8 points.

19           “(D) ENTREPRENEURSHIP.—An alien who  
20           is an entrepreneur in business that employs at  
21           least 2 employees in a zone 4 occupation or a  
22           zone 5 occupation shall be allocated 10 points.

23           “(E) HIGH DEMAND OCCUPATION.—An  
24           alien who is employed full-time in the United  
25           States or has an offer of full-time employment

1 in a high demand tier 1 occupation shall be al-  
2 located 10 points.

3 “(F) CIVIC INVOLVEMENT.—An alien who  
4 has attested that he or she has engaged in a  
5 significant amount of community service, as de-  
6 termined by the Secretary, shall be allocated 2  
7 points.

8 “(G) ENGLISH LANGUAGE.—An alien who  
9 received a score of 80 or more on the Test of  
10 English as a Foreign Language, or an equiva-  
11 lent score on a similar test, as determined by  
12 the Secretary, shall be allocated 10 points.

13 “(H) SIBLINGS AND MARRIED SONS AND  
14 DAUGHTERS OF CITIZENS.—An alien who is the  
15 sibling of a citizen of the United States or who  
16 is over 31 years of age and is the married son  
17 or married daughter of a citizen of the United  
18 States shall be allocated 10 points.

19 “(I) AGE.—An alien who is—

20 “(i) between 18 and 24 years of age  
21 shall be allocated 8 points;

22 “(ii) between 25 and 32 years of age  
23 shall be allocated 6 points; or

24 “(iii) between 33 and 37 years of age  
25 shall be allocated 4 points.

1           “(J) COUNTRY OF ORIGIN.—An alien who  
2           is a national of a country of which fewer than  
3           50,000 nationals were lawfully admitted to per-  
4           manent residence in the United States in the  
5           previous 5 years shall be allocated 5 points.

6           “(5) TIER 2.—The Secretary shall allocate  
7           points to each alien seeking to be a tier 2 merit-  
8           based immigrant as follows:

9           “(A) EMPLOYMENT EXPERIENCE.—An  
10          alien shall be allocated 2 points for each year  
11          the alien has been lawfully employed in the  
12          United States, for a total of not more than 20  
13          points.

14          “(B) SPECIAL EMPLOYMENT CRITERIA.—  
15          An alien who is employed full-time in the  
16          United States, or has an offer of full-time em-  
17          ployment—

18                 “(i) in a high demand tier 2 occupa-  
19                 tion shall be allocated 10 points; or

20                 “(ii) in a zone 1, zone 2, or zone 3 oc-  
21                 cupation shall be allocated 10 points.

22          “(C) CAREGIVER.—An alien who is or has  
23          been a primary caregiver shall be allocated 10  
24          points.



1                   “(D)       EXCEPTIONAL       EMPLOYMENT  
2                   RECORD.—An alien who has a record of excep-  
3                   tional employment, as determined by the Sec-  
4                   retary, shall be allocated 10 points. In deter-  
5                   mining a record of exceptional employment, the  
6                   Secretary shall consider factors including pro-  
7                   motions, longevity, changes in occupations from  
8                   a lower job zone to a higher job zone, partici-  
9                   pated in safety training, and increases in pay.

10                  “(E) CIVIC INVOLVEMENT.—An alien who  
11                  has demonstrated significant civic involvement  
12                  shall be allocated 2 points.

13                  “(F) ENGLISH LANGUAGE.—

14                       “(i)     ENGLISH     PROFICIENCY.—An  
15                       alien who has demonstrated English pro-  
16                       ficiency, as determined by a standardized  
17                       test designated by the Secretary of Edu-  
18                       cation, shall be allocated 10 points.

19                       “(ii)    ENGLISH    KNOWLEDGE.—An  
20                       alien who has demonstrated English knowl-  
21                       edge, as determined by a standardized test  
22                       designated by the Secretary of Education,  
23                       shall be allocated 5 points.

24                       “(G) SIBLINGS AND MARRIED SONS AND  
25                       DAUGHTERS OF CITIZENS.—An alien who is the

1 sibling of a citizen of the United States or is  
2 over the age of 31 and is the married son or  
3 married daughter of a citizen of the United  
4 States shall be allocated 10 points.

5 “(H) AGE.—An alien who is—

6 “(i) between 18 and 24 years of age  
7 shall be allocated 8 points;

8 “(ii) between 25 and 32 years of age  
9 shall be allocated 6 points; or

10 “(iii) between 33 and 37 years of age  
11 shall be allocated 4 points.

12 “(I) COUNTRY OF ORIGIN.—An alien who  
13 is a national of a country of which fewer than  
14 50,000 nationals were lawfully admitted to per-  
15 manent residence in the United States in the  
16 previous 5 years shall be allocated 5 points.

17 “(6) APPLICATION PROCEDURES.—

18 “(A) SUBMISSION.—During the 30-day pe-  
19 riod beginning on the first October 1 occurring  
20 at least 3 years after the date of the enactment  
21 of the Border Security, Economic Opportunity,  
22 and Immigration Modernization Act, and dur-  
23 ing each 30-day period beginning on October 1  
24 in subsequent years, eligible aliens may submit,  
25 to U.S. Citizenship and Immigration Services,

1 an application for a merit-based immigrant visa  
2 that contains such information as the Secretary  
3 may reasonably require.

4 “(B) ADJUDICATION.—Before the last day  
5 of each fiscal year in which applications are  
6 filed pursuant to subparagraph (A), the Direc-  
7 tor, U.S. Citizenship and Immigration Services,  
8 shall—

9 “(i) review the applications to deter-  
10 mine which aliens will be granted a merit-  
11 based immigrant visa in the following fiscal  
12 year in accordance with this subsection;  
13 and

14 “(ii) in coordination with the Sec-  
15 retary of State, provide such visas to all  
16 successful applicants.

17 “(C) FEE.—An alien who is allocated a  
18 visa under this subsection shall pay a fee of  
19 \$1,500 in addition to any fee assessed to cover  
20 the costs to process an application under this  
21 subsection. Fees collected under this paragraph  
22 shall be deposited by the Secretary into the  
23 Comprehensive Immigration Reform Trust  
24 Fund established under section 6(a)(1) of the

1           Border Security, Economic Opportunity, and  
2           Immigration Modernization Act.

3           “(7) ELIGIBILITY OF ALIENS IN REGISTERED  
4           PROVISIONAL IMMIGRANT STATUS.—An alien who  
5           was granted registered provisional immigrant status  
6           under section 245B is not eligible to receive a merit-  
7           based immigrant visa under section 201(e).

8           “(8) INELIGIBILITY OF ALIENS WITH PENDING  
9           OR APPROVED PETITIONS.—An alien who has a peti-  
10          tion pending or approved in another immigrant cat-  
11          egory under this section or section 201 may not  
12          apply for a merit-based immigrant visa.

13          “(9) DEFINITIONS.—In this subsection:

14               “(A) HIGH DEMAND TIER 1 OCCUPA-  
15               TION.—The term ‘high demand tier 1 occupa-  
16               tion’ means 1 of the 5 occupations for which  
17               the highest number of nonimmigrants described  
18               in section 101(a)(15)(H)(i) were sought to be  
19               admitted by employers during the previous fis-  
20               cal year.

21               “(B) HIGH DEMAND TIER 2 OCCUPA-  
22               TION.—The term ‘high demand tier 2 occupa-  
23               tion’ means 1 of the 5 occupations for which  
24               the highest number of positions were sought to

1           become registered positions by employers under  
2           section 220(e) during the previous fiscal year.

3           “(C) SECRETARY.—The term ‘Secretary’  
4           means the Secretary of Homeland Security.

5           “(D) ZONE 1 OCCUPATION.—The term  
6           ‘zone 1 occupation’ means an occupation that  
7           requires little or no preparation and is classified  
8           as a zone 1 occupation on—

9                   “(i) the Occupational Information  
10           Network Database (O\*NET) on the date  
11           of the enactment of the Border Security,  
12           Economic Opportunity, and Immigration  
13           Modernization Act; or

14                   “(ii) such Database or a similar suc-  
15           cessor database, as designated by the Sec-  
16           retary of Labor, after such date of enact-  
17           ment.

18           “(E) ZONE 2 OCCUPATION.—The term  
19           ‘zone 2 occupation’ means an occupation that  
20           requires some preparation and is classified as a  
21           zone 2 occupation on—

22                   “(i) the Occupational Information  
23           Network Database (O\*NET) on the date  
24           of the enactment of the Border Security,

1 Economic Opportunity, and Immigration  
2 Modernization Act; or

3 “(ii) such Database or a similar suc-  
4 cessor database, as designated by the Sec-  
5 retary of Labor, after such date of enact-  
6 ment.

7 “(F) ZONE 3 OCCUPATION.—The term  
8 ‘zone 3 occupation’ means an occupation that  
9 requires medium preparation and is classified  
10 as a zone 3 occupation on—

11 “(i) the Occupational Information  
12 Network Database (O\*NET) on the date  
13 of the enactment of the Border Security,  
14 Economic Opportunity, and Immigration  
15 Modernization Act; or

16 “(ii) such Database or a similar suc-  
17 cessor database, as designated by the Sec-  
18 retary of Labor, after such date of enact-  
19 ment.

20 “(G) ZONE 4 OCCUPATION.—The term  
21 ‘zone 4 occupation’ means an occupation that  
22 requires considerable preparation and is classi-  
23 fied as a zone 4 occupation on—

24 “(i) the Occupational Information  
25 Network Database (O\*NET) on the date

1 of the enactment of the Border Security,  
2 Economic Opportunity, and Immigration  
3 Modernization Act; or

4 “(ii) such Database or a similar suc-  
5 cessor database, as designated by the Sec-  
6 retary of Labor, after such date of enact-  
7 ment.

8 “(H) ZONE 5 OCCUPATION.—The term  
9 ‘zone 5 occupation’ means an occupation that  
10 requires extensive preparation and is classified  
11 as a zone 5 occupation on—

12 “(i) the Occupational Information  
13 Network Database (O\*NET) on the date  
14 of the enactment of the Border Security,  
15 Economic Opportunity, and Immigration  
16 Modernization Act; or

17 “(ii) such Database or a similar suc-  
18 cessor database, as designated by the Sec-  
19 retary of Labor, after such date of enact-  
20 ment.”.

21 (3) GAO STUDY AND REPORT.—

22 (A) STUDY.—The Comptroller General of  
23 the United States shall conduct a study of the  
24 merit-based immigration system established  
25 under section 203(c) of the Immigration and

1           Nationality Act, as amended by paragraph (2),  
2           to determine, during the first 7 years of such  
3           system—

4                   (i) how the points described in para-  
5                   graphs (4)(H), (4)(J), (5)(G), and (5)(I)  
6                   of section 203(c) of such Act were utilized;

7                   (ii) how many of the points allocated  
8                   to people lawfully admitted for permanent  
9                   residence were allocated under such para-  
10                  graphs;

11                  (iii) how many people who were allo-  
12                  cated points under such paragraphs were  
13                  not lawfully admitted to permanent resi-  
14                  dence;

15                  (iv) the countries of origin of the peo-  
16                  ple who applied for a merit-based visa  
17                  under section 203(c) of such Act;

18                  (v) the number of such visas issued  
19                  under tier 1 and tier 2 to males and fe-  
20                  males, respectively;

21                  (vi) the age of individuals who were  
22                  issued such visas; and

23                  (vii) the educational attainment and  
24                  occupation of people who were issued such  
25                  visas.



1 (B) REPORT.—Not later than 7 years after  
2 the date of the enactment of this Act, the  
3 Comptroller General shall submit a report to  
4 Congress that describes the results of the study  
5 conducted pursuant to subparagraph (A).

6 (b) MODIFICATION OF POINTS.—The Secretary may  
7 submit to Congress a proposal to modify the number of  
8 points allocated under subsection (c) of section 203 of the  
9 Immigration and Nationality Act (8 U.S.C. 1153), as  
10 amended by subsection (a).

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on October 1, 2014.

13 **SEC. 2302. MERIT-BASED TRACK TWO.**

14 (a) IN GENERAL.—In addition to any immigrant visa  
15 made available under the Immigration and Nationality Act  
16 (8 U.S.C. 1101 et seq.), as amended by this Act, the Sec-  
17 retary of State shall allocate merit-based immigrant visas  
18 as described in this section.

19 (b) STATUS.—An alien admitted on the basis of a  
20 merit-based immigrant visa under this section shall have  
21 the status of an alien lawfully admitted for permanent res-  
22 idence (as that term is defined in section 101(a)(20) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1101(a)(20)).

1       (c) ELIGIBILITY.—Beginning on October 1, 2014, the  
2 following aliens shall be eligible for merit-based immigrant  
3 visas under this section:

4           (1) EMPLOYMENT-BASED IMMIGRANTS.—An  
5 alien who is the beneficiary of a petition filed before  
6 the date of the enactment of this Act to accord sta-  
7 tus under section 203(b) of the Immigration and  
8 Nationality Act, if the visa has not been issued with-  
9 in 5 years after the date on which such petition was  
10 filed.

11          (2) FAMILY-SPONSORED IMMIGRANTS.—Subject  
12 to subsection (d), an alien who is the beneficiary of  
13 a petition filed to accord status under section 203(a)  
14 of the Immigration and Nationality Act—

15           (A) prior to the date of the enactment of  
16 this Act, if the visa was not issued within 5  
17 years after the date on which such petition was  
18 filed; or

19           (B) after such date of enactment, to ac-  
20 cord status under paragraph (3) or (4) of sec-  
21 tion 203(a) of the Immigration and Nationality  
22 Act (8 U.S.C. 1153(a)), as in effect the minute  
23 before the effective date specified in section  
24 2307(a)(3) of this Act, and the visa was not

1           issued within 5 years after the date on which  
2           petition was filed.

3           (3) LONG-TERM ALIEN WORKERS AND OTHER  
4           MERIT-BASED IMMIGRANTS.—An alien who—

5                   (A) is not admitted pursuant to subpara-  
6           graph (W) of section 101(a)(15) of the Immi-  
7           gration and Nationality Act (8 U.S.C.  
8           1101(a)(15)); and

9                   (B) has been lawfully present in the  
10          United States in a status that allows for em-  
11          ployment authorization for a continuous period,  
12          not counting brief, casual, and innocent ab-  
13          sences, of not less than 10 years.

14          (d) ALLOCATION OF EMPLOYMENT-SPONSORED  
15          MERIT-BASED IMMIGRANT VISAS.—In each of the fiscal  
16          years 2015 through and including 2021, the Secretary of  
17          State shall allocate to aliens described in subsection (c)(1)  
18          a number of merit-based immigrant visas equal to  $\frac{1}{7}$  of  
19          the number of aliens described in subsection (c)(1) whose  
20          visas had not been issued as of the date of the enactment  
21          of this Act.

22          (e) ALLOCATION OF FAMILY-SPONSORED MERIT-  
23          BASED IMMIGRANT VISAS.—The visas authorized by sub-  
24          section (c)(2) shall be allocated as follows:

1           (1) SPOUSES AND CHILDREN OF PERMANENT  
2       RESIDENTS.—Petitions to accord status under sec-  
3       tion 203(a)(2)(A) of the Immigration and Nation-  
4       ality Act (8 U.S.C. 1153(a)(2)(A)), as in effect the  
5       minute before the effective date specified in section  
6       2307(a)(3) of this Act, are automatically converted  
7       to petitions to accord status to the same bene-  
8       ficiaries as immediate relatives under section  
9       201(b)(2)(A) of the Immigration and Nationality  
10      Act (8 U.S.C. 1151(b)(2)(A)).

11          (2) OTHER FAMILY MEMBERS.—In each of the  
12      fiscal years 2015 through and including 2021, the  
13      Secretary of State shall allocate to the aliens de-  
14      scribed in subsection (c)(2)(A), other than those  
15      aliens described in paragraph (1), a number of tran-  
16      sitional merit-based immigrant visas equal to  $\frac{1}{7}$  of  
17      the difference between—

18                (A) the number of aliens described in sub-  
19                section (c)(2)(A) whose visas had not been  
20                issued as of the date of the enactment of this  
21                Act; and

22                (B) the number of aliens described in  
23                paragraph (1).

24          (3) ORDER OF ISSUANCE FOR PREVIOUSLY  
25      FILED APPLICATIONS.—Subject to paragraphs (1)

1       and (2), the visas authorized by subsection (c)(2)(A)  
2       shall be issued without regard to a per country limi-  
3       tation in the order described in section 203(a) of the  
4       Immigration and Nationality Act (8 U.S.C.  
5       1153(a)), as amended by section 2305(b), in the  
6       order in which the petitions to accord status under  
7       such section 203(a) were filed prior to the date of  
8       the enactment of this Act.

9           (4) SUBSEQUENTLY FILED APPLICATIONS.—In  
10       fiscal year 2022, the Secretary of State shall allocate  
11       to the aliens described in subsection (c)(2)(B), the  
12       number of merit-based immigrant visas equal to  $\frac{1}{2}$   
13       of the number of aliens described in subsection  
14       (c)(2)(B) whose visas had not been issued by Octo-  
15       ber 1, 2021. In fiscal year 2023, the Secretary of  
16       State shall allocate to the aliens described in sub-  
17       section (c)(2)(B), the number of merit-based immi-  
18       grant visas equal to the number of aliens described  
19       in subsection (c)(2)(B) whose visas had not been  
20       issued by October 1, 2022.

21           (5) ORDER OF ISSUANCE FOR SUBSEQUENTLY  
22       FILED APPLICATIONS.—Subject to paragraph (4),  
23       the visas authorized by subsection (c)(2)(B) shall be  
24       issued in the order in which the petitions to accord  
25       status under section 203(a) of the Immigration and

1       Nationality Act were filed, as in effect the minute  
2       before the effective date specified in section  
3       2307(a)(3) of this Act.

4       (f) APPLICABILITY OF CERTAIN GROUNDS OF INAD-  
5       MISSIBILITY.—In determining an alien’s inadmissibility  
6       under this section, section 212(a)(9)(B) of the Immigra-  
7       tion and Nationality Act (8 U.S.C. 1182(a)(9)(B)) shall  
8       not apply.

9       (g) ELIGIBILITY IN YEARS AFTER 2028.—Beginning  
10      in fiscal year 2029, aliens eligible for adjustment of status  
11      under subsection (c)(3) must be lawfully present in an em-  
12      ployment authorized status for 20 years prior to filing an  
13      application for adjustment of status.

14      **SEC. 2303. REPEAL OF THE DIVERSITY VISA PROGRAM.**

15      (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)  
16      is amended—

17              (1) in section 201(a) (8 U.S.C. 1151(a))—

18                      (A) in paragraph (1), by adding “and” at  
19                      the end;

20                      (B) in paragraph (2), by striking “; and”  
21                      at the end and inserting a period; and

22                      (C) by striking paragraph (3);

23              (2) in section 203 (8 U.S.C. 1153)—

24                      (A) by striking subsection (c);

25                      (B) in subsection (e)—

- 1 (i) by striking paragraph (2); and  
2 (ii) by redesignating paragraph (3) as  
3 paragraph (2);  
4 (C) in subsection (f), by striking “(a), (b),  
5 or (c) of this section” and inserting “(a) or  
6 (b)””; and  
7 (D) in subsection (g), by striking “(a), (b),  
8 and (c)” and inserting “(a) and (b)””; and  
9 (3) in section 204 (8 U.S.C. 1154)—  
10 (A) in subsection (a), as amended by sec-  
11 tion 2305(d)(6)(A)(i), by striking paragraph  
12 (8); and  
13 (B) in subsection (e), by striking “(a), (b),  
14 or (c)” and inserting “(a) or (b)”.

15 (b) EFFECTIVE DATE AND APPLICATION.—

16 (1) EFFECTIVE DATE.—The amendments made  
17 by this section shall take effect on October 1, 2014.

18 (2) APPLICATION.—An alien who receives a no-  
19 tification from the Secretary that the alien was se-  
20 lected to receive a diversity immigrant visa under  
21 section 203(c) of the Immigration and Nationality  
22 Act (8 U.S.C. 1153(c)) for fiscal year 2013 or fiscal  
23 year 2014 shall remain eligible to receive such visa  
24 under the rules of such section, as in effect on Sep-  
25 tember 30, 2014. No alien may be allocated such a

1       diversity immigrant visa for a fiscal year after fiscal  
2       year 2015.

3   **SEC. 2304. WORLDWIDE LEVELS AND RECAPTURE OF UN-**  
4       **USED IMMIGRANT VISAS.**

5       (a)   EMPLOYMENT-BASED   IMMIGRANTS.—Section  
6   201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

7       “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
8   IMMIGRANTS.—

9           “(1) IN GENERAL.—

10           “(A) WORLDWIDE LEVEL.—For a fiscal  
11       year after fiscal year 2015, the worldwide level  
12       of employment-based immigrants under this  
13       subsection is equal to the sum of—

14           “(i) 140,000; and

15           “(ii) the number computed under  
16       paragraph (2).

17           “(B) FISCAL YEAR 2015.—For fiscal year  
18       2015, the worldwide level of employment-based  
19       immigrants under this subsection is equal to  
20       the sum of—

21           “(i) 140,000;

22           “(ii) the number computed under  
23       paragraph (2); and

24           “(iii) the number computed under  
25       paragraph (3).



1           “(2) PREVIOUS FISCAL YEAR.—The number  
2           computed under this paragraph for a fiscal year is  
3           the difference, if any, between the maximum number  
4           of visas which may be issued under section 203(a)  
5           (relating to family-sponsored immigrants) during the  
6           previous fiscal year and the number of visas issued  
7           under that section during that year.

8           “(3) UNUSED VISAS.—The number computed  
9           under this paragraph is the difference, if any, be-  
10          tween—

11               “(A) the sum of the worldwide levels estab-  
12               lished under paragraph (1), as in effect on the  
13               day before the date of the enactment of the  
14               Border Security, Economic Opportunity, and  
15               Immigration Modernization Act, for fiscal years  
16               1992 through and including 2013; and

17               “(B) the number of visas actually issued  
18               under section 203(b) during such fiscal years.”.

19          (b) FAMILY-SPONSORED IMMIGRANTS.—Section  
20          201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

21               “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-  
22          MIGRANTS.—

23               “(1) IN GENERAL.—

24               “(A) WORLDWIDE LEVEL.—Subject to  
25               subparagraph (C), for each fiscal year after fis-

1 cal year 2015, the worldwide level of family-  
2 sponsored immigrants under this subsection for  
3 a fiscal year is equal to the sum of—

4 “(i) 480,000 minus the number com-  
5 puted under paragraph (2); and

6 “(ii) the number computed under  
7 paragraph (3).

8 “(B) FISCAL YEAR 2015.—Subject to sub-  
9 paragraph (C), for fiscal year 2015, the world-  
10 wide level of family-sponsored immigrants  
11 under this subsection is equal to the sum of—

12 “(i) 480,000 minus the number com-  
13 puted under paragraph (2);

14 “(ii) the number computed under  
15 paragraph (3); and

16 “(iii) the number computed under  
17 paragraph (4).

18 “(C) LIMITATION.—The number computed  
19 under subparagraph (A)(i) or (B)(i) may not be  
20 less than 226,000, except that beginning on the  
21 date that is 18 months after the date of the en-  
22 actment of the Border Security, Economic Op-  
23 portunity, and Immigration Modernization Act,  
24 the number computed under subparagraph  
25 (A)(i) or (B)(i) may not be less than 161,000.

1           “(2) IMMEDIATE RELATIVES.—The number  
2           computed under this paragraph for a fiscal year is  
3           the number of aliens described in subparagraph (A)  
4           or (B) of subsection (b)(2) who were issued immi-  
5           grant visas, or who otherwise acquired the status of  
6           an alien lawfully admitted to the United States for  
7           permanent residence, in the previous fiscal year.

8           “(3) PREVIOUS FISCAL YEAR.—The number  
9           computed under this paragraph for a fiscal year is  
10          the difference, if any, between the maximum number  
11          of visas which may be issued under section 203(b)  
12          (relating to employment-based immigrants) during  
13          the previous fiscal year and the number of visas  
14          issued under that section during that year.

15          “(4) UNUSED VISAS.—The number computed  
16          under this paragraph is the difference, if any, be-  
17          tween—

18                 “(A) the sum of the worldwide levels estab-  
19                 lished under paragraph (1) for fiscal years  
20                 1992 through and including 2013; and

21                 “(B) the number of visas actually issued  
22                 under section 203(a) during such fiscal years.”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24          this section shall take effect on the first day of the first

1 fiscal year beginning after the date of the enactment of  
2 this Act.

3 **SEC. 2305. RECLASSIFICATION OF SPOUSES AND MINOR**  
4 **CHILDREN OF LAWFUL PERMANENT RESI-**  
5 **DENTS AS IMMEDIATE RELATIVES.**

6 (a) IMMEDIATE RELATIVES.—Section 201(b)(2) (8  
7 U.S.C. 1151(b)(2)) is amended to read as follows:

8 “(2)(A) Aliens who are immediate relatives.

9 “(B) In this paragraph, the term ‘immediate  
10 relative’ means—

11 “(i) a child, spouse, or parent of a citizen  
12 of the United States, except that in the case of  
13 such a parent such citizen shall be at least 21  
14 years of age;

15 “(ii) a child or spouse of an alien lawfully  
16 admitted for permanent residence;

17 “(iii) a child or spouse of an alien de-  
18 scribed in clause (i), who is accompanying or  
19 following to join the alien;

20 “(iv) a child or spouse of an alien de-  
21 scribed in clause (ii), who is accompanying or  
22 following to join the alien;

23 “(v) an alien admitted under section  
24 211(a) on the basis of a prior issuance of a visa

1 to the alien's accompanying parent who is an  
2 immediate relative; and

3 “(vi) an alien born to an alien lawfully ad-  
4 mitted for permanent residence during a tem-  
5 porary visit abroad.

6 “(C) If an alien who was the spouse or child of  
7 a citizen of the United States or of an alien lawfully  
8 admitted for permanent residence and was not le-  
9 gally separated from the citizen or lawful permanent  
10 resident at the time of the citizen's or lawful perma-  
11 nent resident's death files a petition under section  
12 204(a)(1)(B), the alien spouse (and each child of the  
13 alien) shall remain, for purposes of this paragraph,  
14 an immediate relative during the period beginning  
15 on the date of the citizen's or permanent resident's  
16 death and ending on the date on which the alien  
17 spouse remarries.

18 “(D) An alien who has filed a petition under  
19 clause (iii) or (iv) of section 204(a)(1)(A) shall re-  
20 main, for purposes of this paragraph, an immediate  
21 relative if the United States citizen or lawful perma-  
22 nent resident spouse or parent loses United States  
23 citizenship on account of the abuse.”.

24 (b) ALLOCATION OF IMMIGRANT VISAS.—Section  
25 203(a) (8 U.S.C. 1153(a)) is amended—

1           (1) in paragraph (1), by striking “23,400,” and  
2           inserting “20 percent of the worldwide level of fam-  
3           ily-sponsored immigrants under section 201(c)”;

4           (2) by striking paragraph (2) and inserting the  
5           following:

6           “(2)   UNMARRIED   SONS   AND   UNMARRIED  
7           DAUGHTERS OF PERMANENT RESIDENT ALIENS.—  
8           Qualified immigrants who are the unmarried sons or  
9           unmarried daughters (but are not the children) of  
10          an alien lawfully admitted for permanent residence  
11          shall be allocated visas in a number not to exceed 20  
12          percent of the worldwide level of family-sponsored  
13          immigrants under section 201(c), plus any visas not  
14          required for the class specified in paragraph (1).”;

15          (3) in paragraph (3)—

16                (A) by striking “23,400,” and inserting  
17                “20 percent of the worldwide level of family-  
18                sponsored immigrants under section 201(c)”;  
19                and

20                (B) by striking “classes specified in para-  
21                graphs (1) and (2).” and inserting “class speci-  
22                fied in paragraph (2).”; and

23          (4) in paragraph (4)—

24                (A) by striking “65,000,” and inserting  
25                “40 percent of the worldwide level of family-

1 sponsored immigrants under section 201(c)”;  
2 and

3 (B) by striking “classes specified in para-  
4 graphs (1) through (3).” and inserting “class  
5 specified in paragraph (3).”.

6 (c) TERMINATION OF REGISTRATION.—Section  
7 203(g) (8 U.S.C. 1153(g)) is amended to read as follows:

8 “(g) LISTS.—

9 “(1) IN GENERAL.—For purposes of carrying  
10 out the orderly administration of this title, the Sec-  
11 retary of State may make reasonable estimates of  
12 the anticipated numbers of immigrant visas to be  
13 issued during any quarter of any fiscal year within  
14 each of the categories under subsections (a), (b),  
15 and (c) and may rely upon such estimates in author-  
16 izing the issuance of visas.

17 “(2) TERMINATION OF REGISTRATION.—

18 “(A) INFORMATION DISSEMINATION.—Not  
19 later than 180 days after the date of the enact-  
20 ment of the Border Security, Economic Oppor-  
21 tunity, and Immigration Modernization Act, the  
22 Secretary of Homeland Security and the Sec-  
23 retary of State shall adopt a plan to broadly  
24 disseminate information to the public regarding  
25 termination of registration procedures described

1 in subparagraphs (B) and (C), including proce-  
2 dures for notifying the Department of Home-  
3 land Security and the Department of State of  
4 any change of address on the part of a peti-  
5 tioner or a beneficiary of an immigrant visa pe-  
6 tition.

7 “(B) TERMINATION FOR FAILURE TO AD-  
8 JUST.—The Secretary of Homeland Security  
9 shall terminate the registration of any alien who  
10 has evidenced an intention to acquire lawful  
11 permanent residence under section 245 and who  
12 fails to apply to adjust status within 1 year fol-  
13 lowing notification to the alien of the avail-  
14 ability of an immigrant visa.

15 “(C) TERMINATION FOR FAILURE TO  
16 APPLY.—The Secretary of State shall terminate  
17 the registration of any alien not described in  
18 subparagraph (B) who fails to apply for an im-  
19 migrant visa within 1 year following notification  
20 to the alien of the availability of such visa.

21 “(3) REINSTATEMENT.—The registration of  
22 any alien that was terminated under paragraph (2)  
23 shall be reinstated if, within 2 years following the  
24 date of notification of the availability of such visa,



1 the alien demonstrates that such failure to apply  
2 was due to good cause.”.

3 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

4 (1) DEFINITIONS.—Section 101(a)(15)(K)(ii)  
5 (8 U.S.C. 1101(a)(15)(K)(ii)) is amended by strik-  
6 ing “section 201(b)(2)(A)(i)” and inserting “section  
7 201(b)(2) (other than clause (v) or (vi) of subpara-  
8 graph (B))”.

9 (2) PER COUNTRY LEVEL.—Section  
10 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended  
11 by striking “section 201(b)(2)(A)(i)” and inserting  
12 “section 201(b)(2) (other than clause (v) or (vi) of  
13 subparagraph (B))”.

14 (3) RULES FOR DETERMINING WHETHER CER-  
15 TAIN ALIENS ARE IMMEDIATE RELATIVES.—Section  
16 201(f) (8 U.S.C. 1151(f)) is amended—

17 (A) in paragraph (1), by striking “para-  
18 graphs (2) and (3),” and inserting “paragraph  
19 (2),”;

20 (B) by striking paragraph (2);

21 (C) by redesignating paragraphs (3) and  
22 (4) as paragraphs (2) and (3), respectively; and

23 (D) in paragraph (3), as redesignated by  
24 subparagraph (C), by striking “through (3)”  
25 and inserting “and (2)”.

1           (4) NUMERICAL LIMITATION TO ANY SINGLE  
2 FOREIGN STATE.—Section 202(a)(4) (8 U.S.C.  
3 1152(a)(4)) is amended—

4           (A) by striking subparagraphs (A) and  
5 (B);

6           (B) by redesignating subparagraphs (C)  
7 and (D) as subparagraphs (A) and (B), respec-  
8 tively; and

9           (C) in subparagraph (A), as redesignated  
10 by clause (ii), by striking “section  
11 203(a)(2)(B)” and inserting “section  
12 203(a)(2)”.

13          (5) ALLOCATION OF IMMIGRANT VISAS.—Sec-  
14 tion 203(h) (8 U.S.C. 1153(h)) is amended—

15           (A) in paragraph (1)—

16           (i) in the matter preceding subpara-  
17 graph (A), by striking “subsections  
18 (a)(2)(A) and (d)” and inserting “sub-  
19 section (d)”;

20           (ii) in subparagraph (A), by striking  
21 “becomes available for such alien (or, in  
22 the case of subsection (d), the date on  
23 which an immigrant visa number became  
24 available for the alien’s parent),” and in-

1                   serting “became available for the alien’s  
2                   parent,”; and

3                   (iii) in subparagraph (B), by striking  
4                   “applicable”;

5                   (B) by amending paragraph (2) to read as  
6                   follows:

7                   “(2) PETITIONS DESCRIBED.—The petition de-  
8                   scribed in this paragraph is a petition filed under  
9                   section 204 for classification of the alien’s parent  
10                  under subsection (a), (b), or (c).”; and

11                  (C) by amending paragraph (3) to read as  
12                  follows:

13                  “(3) RETENTION OF PRIORITY DATE.—

14                  “(A) PETITIONS FILED FOR CHILDREN.—

15                  For a petition originally filed to classify a child  
16                  under subsection (d), if the age of the alien is  
17                  determined under paragraph (1) to be 21 years  
18                  of age or older on the date that a visa number  
19                  becomes available to the alien’s parent who was  
20                  the principal beneficiary of the petition, then,  
21                  upon the parent’s admission to lawful perma-  
22                  nent residence in the United States, the petition  
23                  shall automatically be converted to a petition  
24                  filed by the parent for classification of the alien  
25                  under subsection (a)(2) and the petition shall

1 retain the priority date established by the origi-  
2 nal petition.

3 “(B) FAMILY AND EMPLOYMENT-BASED  
4 PETITIONS.—The priority date for any family-  
5 or employment-based petition shall be the date  
6 of filing of the petition with the Secretary of  
7 Homeland Security (or the Secretary of State,  
8 if applicable), unless the filing of the petition  
9 was preceded by the filing of a labor certifi-  
10 cation with the Secretary of Labor, in which  
11 case that date shall constitute the priority date.  
12 The beneficiary of any petition shall retain his  
13 or her earliest priority date based on any peti-  
14 tion filed on his or her behalf that was approv-  
15 able when filed, regardless of the category of  
16 subsequent petitions.”.

17 (6) PROCEDURE FOR GRANTING IMMIGRANT  
18 STATUS.—

19 (A) PETITIONING PROCEDURE.—Section  
20 204 (8 U.S.C. 1154) is amended—

21 (i) by striking subsection (a) and in-  
22 serting the following:

23 “(a) PETITIONING PROCEDURE.—

24 “(1) IN GENERAL.—(A) Except as provided in  
25 subparagraph (H), any citizen of the United States

1 or alien lawfully admitted for permanent residence  
2 claiming that an alien is entitled to classification by  
3 reason of a relationship described in subparagraph  
4 (A) or (B) of section 203(a)(1) or to an immediate  
5 relative status under section 201(b)(2)(A) may file a  
6 petition with the Secretary of Homeland Security for  
7 such classification.

8 “(B) An alien spouse or alien child described in  
9 section 201(b)(2)(C) may file a petition with the  
10 Secretary under this paragraph for classification of  
11 the alien (and the alien’s children) under such sec-  
12 tion.

13 “(C)(i) An alien who is described in clause (ii)  
14 may file a petition with the Secretary under this  
15 subparagraph for classification of the alien (and any  
16 child of the alien) if the alien demonstrates to the  
17 Secretary that—

18 “(I) the marriage or the intent to marry  
19 the citizen of the United States or lawful per-  
20 manent resident was entered into in good faith  
21 by the alien; and

22 “(II) during the marriage or relationship  
23 intended by the alien to be legally a marriage,  
24 the alien or a child of the alien has been bat-  
25 tered or has been the subject of extreme cruelty

1           perpetrated by the alien’s spouse or intended  
2           spouse.

3           “(ii) For purposes of clause (i), an alien de-  
4           scribed in this clause is an alien—

5                   “(I)(aa) who is the spouse of a citizen of  
6           the United States or lawful permanent resident;

7                   “(bb) who believed that he or she had mar-  
8           ried a citizen of the United States or lawful  
9           permanent resident and with whom a marriage  
10          ceremony was actually performed and who oth-  
11          erwise meets any applicable requirements under  
12          this Act to establish the existence of and bona  
13          fides of a marriage, but whose marriage is not  
14          legitimate solely because of the bigamy of such  
15          citizen of the United States or lawful perma-  
16          nent resident; or

17                   “(cc) who was a bona fide spouse of a cit-  
18          izen of the United States or a lawful permanent  
19          resident within the past 2 years and—

20                   “(AA) whose spouse died within the  
21          past 2 years;

22                   “(BB) whose spouse renounced citi-  
23          zenship status or renounced or lost status  
24          as a lawful permanent resident within the

1 past 2 years related to an incident of do-  
2 mestic violence; or

3 “(CC) who demonstrates a connection  
4 between the legal termination of the mar-  
5 riage within the past 2 years and battering  
6 or extreme cruelty by a spouse who is a  
7 citizen of the United States or a lawful  
8 permanent resident spouse;

9 “(II) who is a person of good moral char-  
10 acter;

11 “(III) who is eligible to be classified as an  
12 immediate relative under section 201(b)(2)(A)  
13 or who would have been so classified but for the  
14 bigamy of the citizen of the United States that  
15 the alien intended to marry; and

16 “(IV) who has resided with the alien’s  
17 spouse or intended spouse.

18 “(D) An alien who is the child of a citizen or  
19 lawful permanent resident of the United States, or  
20 who was a child of a United States citizen or lawful  
21 permanent resident parent who within the past 2  
22 years lost or renounced citizenship status related to  
23 an incident of domestic violence, and who is a person  
24 of good moral character, who is eligible to be classi-  
25 fied as an immediate relative under section

1       201(b)(2)(A), and who resides, or has resided in the  
2       past, with the citizen or lawful permanent resident  
3       parent may file a petition with the Secretary of  
4       Homeland Security under this paragraph for classi-  
5       fication of the alien (and any child of the alien)  
6       under such section if the alien demonstrates to the  
7       Secretary that the alien has been battered by or has  
8       been the subject of extreme cruelty perpetrated by  
9       the alien's citizen or lawful permanent resident par-  
10      ent. For purposes of this subparagraph, residence  
11      includes any period of visitation.

12           “(E) An alien who—

13               “(i) is the spouse, intended spouse, or child  
14              living abroad of a citizen or lawful permanent  
15              resident who—

16                   “(I) is an employee of the United  
17                  States Government;

18                   “(II) is a member of the uniformed  
19                  services (as defined in section 101(a) of  
20                  title 10, United States Code); or

21                   “(III) has subjected the alien or the  
22                  alien's child to battery or extreme cruelty  
23                  in the United States; and

24                   “(ii) is eligible to file a petition under sub-  
25                  paragraph (C) or (D),



1       shall file such petition with the Secretary of Home-  
2       land Security under the procedures that apply to  
3       self-petitioners under subparagraph (C) or (D), as  
4       applicable.

5           “(F) For the purposes of any petition filed  
6       under subparagraph (C) or (D), the  
7       denaturalization, loss or renunciation of citizenship  
8       or lawful permanent resident status, death of the  
9       abuser, divorce, or changes to the abuser’s citizen-  
10      ship or lawful permanent resident status after filing  
11      of the petition shall not adversely affect the approval  
12      of the petition, and for approved petitions shall not  
13      preclude the classification of the eligible self-peti-  
14      tioning spouse or child as an immediate relative or  
15      affect the alien’s ability to adjust status under sub-  
16      sections (a) and (c) of section 245 or obtain status  
17      as a lawful permanent resident based on the ap-  
18      proved self-petition under such clauses.

19           “(G) An alien may file a petition with the Sec-  
20      retary of Homeland Security under this paragraph  
21      for classification of the alien under section  
22      201(b)(2)(A) if the alien—

23           “(i) is the parent of a citizen of the United  
24           States or was a parent of a citizen of the  
25           United States who, within the past 2 years, lost

1 or renounced citizenship status related to an in-  
2 cident of domestic violence or died;

3 “(ii) is a person of good moral character;

4 “(iii) is eligible to be classified as an im-  
5 mediate relative under section 201(b)(2)(A);

6 “(iv) resides, or has resided, with the cit-  
7 izen daughter or son; and

8 “(v) demonstrates that the alien has been  
9 battered or subject to extreme cruelty by the  
10 citizen daughter or son.

11 “(H)(i) Subparagraph (A) shall not apply to a  
12 citizen of the United States who has been convicted  
13 of a specified offense against a minor, unless the  
14 Secretary of Homeland Security, in the Secretary’s  
15 sole and unreviewable discretion, determines that the  
16 citizen poses no risk to the alien with respect to  
17 whom a petition described in subparagraph (A) is  
18 filed.

19 “(ii) For purposes of clause (i), the term ‘speci-  
20 fied offense against a minor’ has the meaning given  
21 such term in section 111 of the Adam Walsh Child  
22 Protection and Safety Act of 2006 (42 U.S.C.  
23 16911).

24 “(2) DETERMINATION OF GOOD MORAL CHAR-  
25 ACTER.—Notwithstanding section 101(f), an act or

1 conviction that is waivable with respect to the peti-  
2 tioner for purposes of a determination of the peti-  
3 tioner's admissibility under section 212(a) or deport-  
4 ability under section 237(a) shall not bar the Sec-  
5 retary of Homeland Security from finding the peti-  
6 tioner to be of good moral character under subpara-  
7 graph (C) or (D) of paragraph (1), if the Secretary  
8 finds that the act or conviction was connected to the  
9 alien's having been battered or subjected to extreme  
10 cruelty.

11 “(3) PREFERENCE STATUS.—(A)(i) Any child  
12 who attains 21 years of age who has filed a petition  
13 under paragraph (1)(D) that was filed or approved  
14 before the date on which the child attained 21 years  
15 of age shall be considered (if the child has not been  
16 admitted or approved for lawful permanent residence  
17 by the date the child attained 21 years of age) a pe-  
18 titioner for preference status under paragraph (1),  
19 (2), or (3) of section 203(a), whichever paragraph is  
20 applicable, with the same priority date assigned to  
21 the self-petition filed under paragraph (1)(D). No  
22 new petition shall be required to be filed.

23 “(ii) Any individual described in clause (i) is el-  
24 igible for deferred action and work authorization.

1           “(iii) Any derivative child who attains 21 years  
2           of age who is included in a petition described in sub-  
3           paragraph (B) that was filed or approved before the  
4           date on which the child attained 21 years of age  
5           shall be considered (if the child has not been admit-  
6           ted or approved for lawful permanent residence by  
7           the date the child attained 21 years of age) a VAWA  
8           self-petitioner with the same priority date as that as-  
9           signed to the petitioner in any petition described in  
10          subparagraph (B). No new petition shall be required  
11          to be filed.

12          “(iv) Any individual described in clause (iii) and  
13          any derivative child of a petitioner described in sub-  
14          paragraph (B) is eligible for deferred action and  
15          work authorization.

16          “(B) The petition referred to in subparagraph  
17          (A)(iii) is a petition filed by an alien under subpara-  
18          graph (C) or (D) of paragraph (1) in which the child  
19          is included as a derivative beneficiary.

20          “(C) Nothing in the amendments made by the  
21          Child Status Protection Act (Public Law 107–208;  
22          116 Stat. 927) shall be construed to limit or deny  
23          any right or benefit provided under this paragraph.

24          “(D) Any alien who benefits from this para-  
25          graph may adjust status in accordance with sub-

1 sections (a) and (c) of section 245 as an alien hav-  
2 ing an approved petition for classification under sub-  
3 paragraph (C) or (D) of paragraph (1).

4 “(E) For purposes of this paragraph, an indi-  
5 vidual who is not less than 21 years of age, who  
6 qualified to file a petition under paragraph (1)(D)  
7 as of the minute before the date on which the indi-  
8 vidual attained 21 years of age, and who did not file  
9 such a petition before such day, shall be treated as  
10 having filed a petition under such paragraph as of  
11 such day if a petition is filed for the status described  
12 in such paragraph before the individual attains 25  
13 years of age and the individual shows that the abuse  
14 was at least 1 central reason for the filing delay.  
15 Subparagraphs (A) through (D) shall apply to an in-  
16 dividual described in this subparagraph in the same  
17 manner as an individual filing a petition under para-  
18 graph (1)(D).

19 “(4) CLASSIFICATION AS ALIEN WITH EX-  
20 TRAORDINARY ABILITY.—Any alien desiring to be  
21 classified under subparagraph (I), (J), (K), (L), or  
22 (M) of section 201(b)(1) or section 203(b)(1)(A), or  
23 any person on behalf of such an alien, may file a pe-  
24 tition with the Secretary of Homeland Security for  
25 such classification.

1           “(5) CLASSIFICATION AS EMPLOYMENT-BASED  
2       IMMIGRANT.—Any employer desiring and intending  
3       to employ within the United States an alien entitled  
4       to classification under paragraph (1)(B), (1)(C), (2),  
5       or (3) of section 203(b) may file a petition with the  
6       Secretary of Homeland Security for such classifica-  
7       tion.

8           “(6) CLASSIFICATION AS SPECIAL IMMI-  
9       GRANT.—(A) Any alien (other than a special immi-  
10      grant under section 101(a)(27)(D)) desiring to be  
11      classified under section 203(b)(4), or any person on  
12      behalf of such an alien, may file a petition with the  
13      Secretary of Homeland Security for such classifica-  
14      tion.

15          “(B) Aliens claiming status as a special immi-  
16      grant under section 101(a)(27)(D) may file a peti-  
17      tion only with the Secretary of State and only after  
18      notification by the Secretary that such status has  
19      been recommended and approved pursuant to such  
20      section.

21          “(7) CLASSIFICATION AS IMMIGRANT INVES-  
22      TOR.—Any alien desiring to be classified under para-  
23      graph (5) or (6) of section 203(b) may file a petition  
24      with the Secretary of Homeland Security for such  
25      classification.

1           “(8) DIVERSITY VISA.—(A) Any alien desiring  
2           to be provided an immigrant visa under section  
3           203(c) may file a petition at the place and time de-  
4           termined by the Secretary of State by regulation.  
5           Only 1 such petition may be filed by an alien with  
6           respect to any petitioning period established. If more  
7           than 1 petition is submitted all such petitions sub-  
8           mitted for such period by the alien shall be voided.

9           “(B)(i) The Secretary of State shall designate  
10          a period for the filing of petitions with respect to  
11          visas which may be issued under section 203(c) for  
12          the fiscal year beginning after the end of the period.

13          “(ii) Aliens who qualify, through random selec-  
14          tion, for a visa under section 203(c) shall remain eli-  
15          gible to receive such visa only through the end of the  
16          specific fiscal year for which they were selected.

17          “(iii) The Secretary of State shall prescribe  
18          such regulations as may be necessary to carry out  
19          this subparagraph.

20          “(C) A petition under this paragraph shall be  
21          in such form as the Secretary of State may by regu-  
22          lation prescribe and shall contain such information  
23          and be supported by such documentary evidence as  
24          the Secretary of State may require.

1           “(D) Each petition to compete for consideration  
2           for a visa under section 203(c) shall be accompanied  
3           by a fee equal to \$30. All amounts collected under  
4           this subparagraph shall be deposited into the Treas-  
5           ury as miscellaneous receipts.

6           “(9) CONSIDERATION OF CREDIBLE EVI-  
7           DENCE.—In acting on petitions filed under subpara-  
8           graph (C) or (D) of paragraph (1), or in making de-  
9           terminations under paragraphs (2) and (3), the Sec-  
10          retary of Homeland Security shall consider any cred-  
11          ible evidence relevant to the petition. The determina-  
12          tion of what evidence is credible and the weight to  
13          be given that evidence shall be within the sole discre-  
14          tion of the Secretary.

15          “(10) WORK AUTHORIZATION.—(A) Upon the  
16          approval of a petition as a VAWA self-petitioner, the  
17          alien—

18                 “(i) is eligible for work authorization; and

19                 “(ii) may be provided an ‘employment au-  
20                 thorized’ endorsement or appropriate work per-  
21                 mit incidental to such approval.

22          “(B) Notwithstanding any provision of this Act  
23          restricting eligibility for employment in the United  
24          States, the Secretary of Homeland Security shall  
25          grant employment authorization to an alien who has



1 filed an application for status as a VAWA self-peti-  
2 tioner on the date that is the earlier of—

3 “(i) the date on which the alien’s applica-  
4 tion for such status is approved; or

5 “(ii) a date determined by the Secretary  
6 that is not later than 180 days after the date  
7 on which the alien filed the application.

8 “(11) LIMITATION.—Notwithstanding para-  
9 graphs (1) through (10), an individual who was a  
10 VAWA petitioner or who had the status of a non-  
11 immigrant under subparagraph (T) or (U) of section  
12 101(a)(15) may not file a petition for classification  
13 under this section or section 214 to classify any per-  
14 son who committed the battery or extreme cruelty or  
15 trafficking against the individual (or the individual’s  
16 child), which established the individual’s (or individ-  
17 ual’s child’s) eligibility as a VAWA petitioner or for  
18 such nonimmigrant status.”;

19 (ii) in subsection (c)(1), by striking  
20 “or preference status”; and

21 (iii) in subsection (h), by striking “or  
22 a petition filed under subsection  
23 (a)(1)(B)(ii)”.

24 (B) CONFORMING AMENDMENTS.—The  
25 Act (8 U.S.C. 1101 et seq.) is amended—

1 (i) in section 101(a)—

2 (I) in paragraph (15)(K), by  
3 striking “204(a)(1)(A)(viii)(I)” each  
4 place such term appears and inserting  
5 “204(a)(1)(H)(i)”;

6 (II) in paragraph (50), by strik-  
7 ing “204(a)(1)(A)(iii)(II)(aa)(BB),  
8 204(a)(1)(B)(ii)(II)(aa)(BB),” and in-  
9 serting “204(a)(1)(C)(ii)(I)(bb) or”;  
10 and

11 (III) in paragraph (51)—

12 (aa) in subparagraph (A),  
13 by striking “204(a)(1)(A)” and  
14 inserting “204(a)(1)”;

15 (bb) by striking subpara-  
16 graph (B); and

17 (cc) by redesignating sub-  
18 paragraphs (C), (D), (E), (F),  
19 and (G) as subparagraphs (B),  
20 (C), (D), (E), and (F), respec-  
21 tively;

22 (ii) in section 212(a)(4)(C)(i)—

23 (I) in subclause (I), by striking  
24 “clause (ii), (iii), or (iv) of section  
25 204(a)(1)(A), or” and inserting “sub-

1 paragraph (B), (C), or (D) of section  
2 204(a)(1);”;  
3 (II) by striking subclause (II);  
4 and  
5 (III) by redesignating subclause  
6 (III) as subclause (II);  
7 (iii) in section 216(c)(4)(D), by strik-  
8 ing “204(a)(1)(A)(iii)(II)(aa)(BB)” and  
9 inserting “204(a)(1)(C)(ii)(I)(bb)”; and  
10 (iv) in section 240(c)(7)(C)(iv)(I), by  
11 striking “clause (iii) or (iv) of section  
12 204(a)(1)(A), clause (ii) or (iii) of section  
13 204(a)(1)(B),” and inserting “subpara-  
14 graph (C) or (D) of section 204(a)(1),”.

15 (7) EXCLUDABLE ALIENS.—Section  
16 212(d)(12)(B) (8 U.S.C. 1182(d)(12)(B)) is amend-  
17 ed by striking “section 201(b)(2)(A)” and inserting  
18 “section 201(b)(2) (other than subparagraph  
19 (B)(vi))”.

20 (8) ADMISSION OF NONIMMIGRANTS.—Section  
21 214(r)(3)(A) (8 U.S.C. 1184(r)(3)(A)) is amended  
22 by striking “section 201(b)(2)(A)(i).” and inserting  
23 “section 201(b)(2) (other than clause (v) or (vi) of  
24 subparagraph (B)).”.

1           (9) REFUGEE CRISIS IN IRAQ ACT OF 2007.—

2           Section 1243(a)(4) of the Refugee Crisis in Iraq Act  
3           of 2007 (8 U.S.C. 1157 note) is amended by strik-  
4           ing “section 201(b)(2)(A)(i)” and inserting “section  
5           201(b)(2) (other than clause (v) or (vi) of subpara-  
6           graph (B))”.

7           (10) PROCESSING OF VISA APPLICATIONS.—

8           Section 233 of the Department of State Authoriza-  
9           tion Act, Fiscal Year 2003 (8 U.S.C. 1201 note) is  
10          amended by striking “section 201(b)(2)(A)(i)” and  
11          inserting “section 201(b)(2) (other than clause (v)  
12          or (vi) of subparagraph (B))”.

13          (11) ADJUSTMENT OF STATUS.—Section 245(a)

14          (8 U.S.C. 1255(a)) is amended to read as follows:

15          “(a)(1) The status of an alien who was inspected and  
16          admitted or paroled into the United States or the status  
17          of any other alien having an approved petition for classi-  
18          fication as a VAWA self-petitioner may be adjusted by the  
19          Attorney General or the Secretary of Homeland Security,  
20          in the Attorney General’s or the Secretary’s discretion and  
21          under such regulations as the Attorney General or Sec-  
22          retary may prescribe, to that of an alien lawfully admitted  
23          for permanent residence (regardless of whether the alien  
24          has already been admitted for permanent residence) if—

1           “(A) the alien makes an application for such  
2       adjustment;

3           “(B) the alien is eligible to receive an immi-  
4       grant visa and is admissible to the United States for  
5       permanent residence; and

6           “(C) subject to paragraph (2), an immigrant  
7       visa is immediately available to the alien at the time  
8       the alien’s application is filed.

9       “(2)(A) An application that is based on a petition ap-  
10     proved or approvable under subparagraph (A) or (B) of  
11     section 204(a)(1) may be filed without regard to the limi-  
12     tation set forth in paragraph (1)(C).

13       “(B) An application for adjustment filed for an alien  
14     under this paragraph may not be approved until such time  
15     as an immigrant visa becomes available for the alien.”.

16       (e) EFFECTIVE DATE.—The amendments made by  
17     this section shall take effect on the date of the enactment  
18     of this Act.

19     **SEC. 2306. NUMERICAL LIMITATIONS ON INDIVIDUAL FOR-**  
20                   **EIGN STATES.**

21       (a) NUMERICAL LIMITATION TO ANY SINGLE FOR-  
22     EIGN STATE.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is  
23     amended—

24           (1) in the paragraph heading, by striking “AND  
25     EMPLOYMENT-BASED”;

1           (2) by striking “(3), (4), and (5),” and insert-  
2           ing “(3) and (4),”;

3           (3) by striking “subsections (a) and (b) of sec-  
4           tion 203” and inserting “section 203(a);”

5           (4) by striking “7” and inserting “15”; and

6           (5) by striking “such subsections” and inserting  
7           “such section”.

8           (b) CONFORMING AMENDMENTS.—Section 202 (8  
9           U.S.C. 1152) is amended—

10           (1) in subsection (a)—

11                   (A) in paragraph (3), by striking “both  
12                   subsections (a) and (b) of section 203” and in-  
13                   serting “section 203(a);” and

14                   (B) by striking paragraph (5); and

15           (2) by amending subsection (e) to read as fol-  
16           lows:

17           “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—

18           If it is determined that the total number of immigrant  
19           visas made available under section 203(a) to natives of  
20           any single foreign state or dependent area will exceed the  
21           numerical limitation specified in subsection (a)(2) in any  
22           fiscal year, in determining the allotment of immigrant visa  
23           numbers to natives under section 203(a), visa numbers  
24           with respect to natives of that state or area shall be allo-  
25           cated (to the extent practicable and otherwise consistent

1 with this section and section 203) in a manner so that,  
2 except as provided in subsection (a)(4), the proportion of  
3 the visa numbers made available under each of paragraphs  
4 (1) through (4) of section 203(a) is equal to the ratio of  
5 the total number of visas made available under the respec-  
6 tive paragraph to the total number of visas made available  
7 under section 203(a).”.

8 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the  
9 Chinese Student Protection Act of 1992 (8 U.S.C. 1255  
10 note) is amended—

11 (1) in subsection (a), by striking “subsection  
12 (e))” and inserting “subsection (d))”; and

13 (2) by striking subsection (d) and redesignating  
14 subsection (e) as subsection (d).

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect 1 year after the date of the  
17 enactment of this Act.

18 **SEC. 2307. ALLOCATION OF IMMIGRANT VISAS.**

19 (a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
20 SORED IMMIGRANTS.—

21 (1) IN GENERAL.—Section 203(a) (8 U.S.C.  
22 1153(a)), as amended by section 2305(b), is further  
23 amended to read as follows:

24 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
25 SORED IMMIGRANTS.—Aliens subject to the worldwide

1 level specified in section 201(c) for family-sponsored immi-  
2 grants shall be allotted visas as follows:

3 “(1) SONS AND DAUGHTERS OF CITIZENS.—

4 Qualified immigrants who are—

5 “(A) the unmarried sons or unmarried  
6 daughters but not the children of citizens of the  
7 United States shall be allocated visas in a num-  
8 ber not to exceed 35 percent of the worldwide  
9 level authorized in section 201(c), plus the sum  
10 of—

11 “(i) the number of visas not required  
12 for the class specified in paragraph (2) for  
13 the current fiscal year; and

14 “(ii) the number of visas not required  
15 for the class specified in subparagraph (B);  
16 or

17 “(B) the married sons or married daugh-  
18 ters of citizens of the United States who are 31  
19 years of age or younger at the time of filing a  
20 petition under section 204 shall be allocated  
21 visas in a number not to exceed 25 percent of  
22 the worldwide level authorized in section 201(c),  
23 plus the number of any visas not required for  
24 the class specified in subparagraph (A) current  
25 fiscal year.



1           “(2) SONS AND DAUGHTERS OF PERMANENT  
2       RESIDENTS.—Qualified immigrants who are the un-  
3       married sons or unmarried daughters of aliens ad-  
4       mitted for permanent residence shall be allocated  
5       visas in a number not to exceed 40 percent of the  
6       worldwide level authorized in section 201(c), plus  
7       any visas not required for the class specified in para-  
8       graph (1)(A).”.

9           (2) CONFORMING AMENDMENTS.—

10           (A) PROCEDURE FOR GRANTING IMMI-  
11       GRANT STATUS.—Section 204(f)(1) (8 U.S.C.  
12       1154(f)(1)) is amended by striking “section  
13       201(b), 203(a)(1), or 203(a)(3),” and inserting  
14       “section 201(b) or subparagraph (A) or (B) of  
15       section 203(a)(1)”.

16           (B) AUTOMATIC CONVERSION.—For the  
17       purposes of any petition pending or approved  
18       based on a relationship described—

19           (i) in subparagraph (A) of section  
20       203(a)(1) of the Immigration and Nation-  
21       ality Act (8 U.S.C. 1153(a)(1)), as amend-  
22       ed by paragraph (1), and notwithstanding  
23       the age of the alien, such a petition shall  
24       be deemed reclassified as a petition based  
25       on a relationship described in subpara-

1 graph (B) of such section 203(a)(1) upon  
2 the marriage of such alien; or

3 (ii) in subparagraph (B) of such sec-  
4 tion 203(a)(1), such a petition shall be  
5 deemed reclassified as a petition based on  
6 a relationship described in subparagraph  
7 (A) of such section 203(a)(1) upon the  
8 legal termination of marriage or death of  
9 such alien's spouse.

10 (3) EFFECTIVE DATE.—The amendments made  
11 by this subsection shall take effect on the first day  
12 of the first fiscal year that begins at least 18 months  
13 following the date of the enactment of this Act.

14 (b) PREFERENCE ALLOCATION FOR EMPLOYMENT-  
15 BASED IMMIGRANTS.—

16 (1) IN GENERAL.—Section 201(b)(1) (8 U.S.C.  
17 1151(b)(1)), as amended by sections 2103(e) and  
18 2212(d), is further amended by adding at the end  
19 the following:

20 “(H) Derivative beneficiaries as described  
21 in section 203(d) of employment-based immi-  
22 grants under section 203(b).

23 “(I) Aliens with extraordinary ability in  
24 the sciences, arts, education, business, or ath-  
25 letics which has been demonstrated by sus-

1           tained national or international acclaim, if, with  
2           respect to any such alien—

3                   “(i) the achievements of such alien  
4                   have been recognized in the field through  
5                   extensive documentation;

6                   “(ii) such alien seeks to enter the  
7                   United States to continue work in the area  
8                   of extraordinary ability; and

9                   “(iii) the entry of such alien into the  
10                  United States will substantially benefit  
11                  prospectively the United States.

12                 “(J) Aliens who are outstanding professors  
13                 and researchers if, with respect to any such  
14                 alien—

15                   “(i) the alien is recognized inter-  
16                   nationally as outstanding in a specific aca-  
17                   demic area;

18                   “(ii) the alien has at least 3 years of  
19                   experience in teaching or research in the  
20                   academic area; and

21                   “(iii) the alien seeks to enter the  
22                   United States—

23                   “(I) to be employed in a tenured  
24                   position (or tenure-track position)  
25                   within a not for profit university or

1 institution of higher education to  
2 teach in the academic area;

3 “(II) for employment in a com-  
4 parable position with a not for profit  
5 university or institution of higher edu-  
6 cation, or a governmental research or-  
7 ganization, to conduct research in the  
8 area; or

9 “(III) for employment in a com-  
10 parable position to conduct research  
11 in the area with a department, divi-  
12 sion, or institute of a private em-  
13 ployer, if the department, division, or  
14 institute employs at least 3 persons  
15 full-time in research activities and has  
16 achieved documented accomplishments  
17 in an academic field.

18 “(K) Aliens who are multinational execu-  
19 tives and managers if, with respect to any such  
20 alien—

21 “(i) in the 3 years preceding the time  
22 of the alien’s application for classification  
23 and admission into the United States  
24 under this subparagraph, the alien has  
25 been employed for at least 1 year by a firm

1 or corporation or other legal entity or an  
2 affiliate or subsidiary thereof; and

3 “(ii) the alien seeks to enter the  
4 United States in order to continue to  
5 render services to the same employer or to  
6 a subsidiary or affiliate thereof in a capac-  
7 ity that is managerial or executive.

8 “(L) Aliens who have earned a doctorate  
9 degree from an institution of higher education  
10 in the United States or the foreign equivalent.

11 “(M) Alien physicians who have completed  
12 the foreign residency requirements under sec-  
13 tion 212(e) or obtained a waiver of these re-  
14 quirements or an exemption requested by an in-  
15 terested State agency or by an interested Fed-  
16 eral agency under section 214(l), including  
17 those alien physicians who completed such serv-  
18 ice before the date of the enactment of the Bor-  
19 der Security, Economic Opportunity, and Immi-  
20 gration Modernization Act.

21 “(N) ADVANCED DEGREES IN A STEM  
22 FIELD.—

23 “(i) IN GENERAL.—An immigrant  
24 who—

1                   “(I) has earned a master’s or  
2                   higher degree in a field of science,  
3                   technology, engineering, or mathe-  
4                   matics included in the Department of  
5                   Education’s Classification of Instruc-  
6                   tional Programs taxonomy within the  
7                   summary groups of computer and in-  
8                   formation sciences and support serv-  
9                   ices, engineering, mathematics and  
10                  statistics, biological and biomedical  
11                  sciences, and physical sciences, from a  
12                  United States institution of higher  
13                  education;

14                  “(II) has an offer of employment  
15                  from a United States employer in a  
16                  field related to such degree; and

17                  “(III) earned the qualifying grad-  
18                  uate degree during the 5-year period  
19                  immediately before the initial filing  
20                  date of the petition under which the  
21                  nonimmigrant is a beneficiary.

22                  “(ii) DEFINITION.—In this subpara-  
23                  graph, the term ‘United States institution  
24                  of higher education’ means an institution  
25                  that—

1                   “(I) is described in section  
2                   101(a) of the Higher Education Act  
3                   of 1965 (20 U.S.C. 1001(a)) or is a  
4                   proprietary institution of higher edu-  
5                   cation (as defined in section 102(b) of  
6                   such Act (20 U.S.C. 1002(b)));

7                   “(II) was classified by the Car-  
8                   negie Foundation for the Advance-  
9                   ment of Teaching on January 1,  
10                  2012, as a doctorate-granting univer-  
11                  sity with a very high or high level of  
12                  research activity or classified by the  
13                  National Science Foundation after the  
14                  date of enactment of this subpara-  
15                  graph, pursuant to an application by  
16                  the institution, as having equivalent  
17                  research activity to those institutions  
18                  that had been classified by the Car-  
19                  negie Foundation as being doctorate-  
20                  granting universities with a very high  
21                  or high level of research activity; and

22                  “(III) is accredited by an accred-  
23                  iting body that is itself accredited ei-  
24                  ther by the Department of Education

1 or by the Council for Higher Edu-  
2 cation Accreditation.”.

3 (2) EXCEPTION FROM LABOR CERTIFICATION  
4 REQUIREMENT FOR STEM IMMIGRANTS.—Section  
5 212(a)(5)(D) (8 U.S.C. 1182(a)(5)(D)) is amended  
6 to read as follows:

7 “(D) APPLICATION OF GROUNDS.—

8 “(i) IN GENERAL.—Except as pro-  
9 vided in clause (ii), the grounds for inad-  
10 missibility of aliens under subparagraphs  
11 (A) and (B) shall apply to immigrants  
12 seeking admission or adjustment of status  
13 under paragraph (2) or (3) of section  
14 203(b).

15 “(ii) SPECIAL RULE FOR STEM IMMI-  
16 GRANTS.—The grounds for inadmissibility  
17 of aliens under subparagraph (A) shall not  
18 apply to an immigrant seeking admission  
19 or adjustment of status under section  
20 203(b)(2)(B) or 201(b)(1)(N).”.

21 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) TREATMENT OF DERIVATIVE FAMILY MEM-  
23 BERS.—Section 203(d) (8 U.S.C. 1153(d)) is  
24 amended to read as follows:



1       “(d) TREATMENT OF FAMILY MEMBERS.—If accom-  
2   panying or following to join a spouse or parent issued a  
3   visa under subsection (a), (b), or (c), subparagraph (I),  
4   (J), (K), (L), or (M) of section 201(b)(1), or section  
5   201(b)(2), a spouse or child (as defined in subparagraph  
6   (A), (B), (C), (D), or (E) of section 101(b)(1)) shall be  
7   entitled to the same immigrant status and the same order  
8   of consideration provided in the respective provision.”.

9           (2) ALIENS WHO ARE PRIORITY WORKERS OR  
10       MEMBERS OF THE PROFESSIONS HOLDING AD-  
11       VANCED DEGREES.—Section 203(b) (8 U.S.C.  
12       1153(b)) is amended—

13               (A) in the matter preceding paragraph (1),  
14       by striking “Aliens” and inserting “Other than  
15       aliens described in paragraph (1) or (2)(B),  
16       aliens”;

17               (B) in paragraph (1), by striking the mat-  
18       ter preceding subparagraph (A) and inserting  
19       “Aliens described in any of the following sub-  
20       paragraphs may be admitted to the United  
21       States without respect to the worldwide level  
22       specified in section 201(d)”;

23               (C) by amending paragraph (2) to read as  
24       follows:

1           “(2) ALIENS WHO ARE MEMBERS OF PROFES-  
2           SIONS HOLDING ADVANCED DEGREES OR PROSPEC-  
3           TIVE EMPLOYEES OF NATIONAL SECURITY FACILI-  
4           TIES.—

5           “(A) IN GENERAL.—Visas shall be made  
6           available, in a number not to exceed 40 percent  
7           of the worldwide level authorized in section  
8           201(d), plus any visas not required for the  
9           classes specified in paragraph (5) to qualified  
10          immigrants who are either of the following:

11           “(i) Members of the professions hold-  
12           ing advanced degrees or their equivalent  
13           whose services in the sciences, arts, profes-  
14           sions, or business are sought by an em-  
15           ployer in the United States, including alien  
16           physicians holding foreign medical degrees  
17           that have been deemed sufficient for ac-  
18           ceptance by an accredited United States  
19           medical residency or fellowship program.

20           “(ii) Prospective employees, in a re-  
21           search capacity, of Federal national secu-  
22           rity, science, and technology laboratories,  
23           centers, and agencies, if such immigrants  
24           have been lawfully present in the United  
25           States for two years prior to employment

1 (unless the Secretary of Homeland Secu-  
2 rity determines, including upon request of  
3 the prospective laboratory, center, or agen-  
4 cy, that exceptional circumstances exist  
5 justifying waiver of the presence require-  
6 ment).

7 “(B) WAIVER OF JOB OFFER.—

8 “(i) NATIONAL INTEREST WAIVER.—  
9 Subject to clause (ii), the Secretary of  
10 Homeland Security may, if the Secretary  
11 deems it to be in the national interest,  
12 waive the requirements of subparagraph  
13 (A) that an alien’s services in the sciences,  
14 arts, professions, or business be sought by  
15 an employer in the United States.

16 “(ii) PHYSICIANS WORKING IN SHORT-  
17 AGE AREAS OR VETERANS FACILITIES.—

18 “(I) IN GENERAL.—The Sec-  
19 retary shall grant a national interest  
20 waiver pursuant to clause (i) on be-  
21 half of any alien physician with re-  
22 spect to whom a petition for pref-  
23 erence classification has been filed  
24 under subparagraph (A) if—

1                   “(aa) the alien physician  
2 agrees to work on a full- time  
3 basis practicing primary care,  
4 specialty medicine, or a combina-  
5 tion thereof, in an area or areas  
6 designated by the Secretary of  
7 Health and Human Services as  
8 having a shortage of health care  
9 professionals or at a health care  
10 facility under the jurisdiction of  
11 the Secretary of Veterans Affairs;  
12 or

13                   “(bb) the alien physician is  
14 pursuing such waiver based upon  
15 service at a facility or facilities  
16 that serve patients who reside in  
17 a geographic area or areas des-  
18 ignated by the Secretary of  
19 Health and Human Services as  
20 having a shortage of health care  
21 professionals (without regard to  
22 whether such facility or facilities  
23 are located within such an area)  
24 and a Federal agency or a local,  
25 county, regional, or State depart-

1           ment of public health determines  
2           that the alien physician's work at  
3           such facility was or will be in the  
4           public interest.

5           “(II) PROHIBITION.—

6                   “(aa) No permanent resi-  
7                   dent visa may be issued to an  
8                   alien physician described in sub-  
9                   clause (I) by the Secretary of  
10                  State under section 204(b), and  
11                  the Secretary of Homeland Secu-  
12                  rity may not adjust the status of  
13                  such an alien physician from that  
14                  of a nonimmigrant alien to that  
15                  of a permanent resident alien  
16                  under section 245, until such  
17                  time as the alien has worked full  
18                  time as a physician for an aggre-  
19                  gate of 5 years (not including the  
20                  time served in the status of an  
21                  alien described in section  
22                  101(a)(15)(J)), in an area or  
23                  areas designated by the Secretary  
24                  of Health and Human Services  
25                  as having a shortage of health

1 care professionals or at a health  
2 care facility under the jurisdic-  
3 tion of the Secretary of Veterans  
4 Affairs, or at a facility or facili-  
5 ties meeting the requirements of  
6 subclause (I)(bb).

7 “(bb) The 5-year service re-  
8 quirement of item (aa) shall be  
9 counted from the date the alien  
10 physician begins work in the  
11 shortage area in any legal status  
12 and not the date an immigrant  
13 visa petition is filed or approved.  
14 Such service shall be aggregated  
15 without regard to when such  
16 service began and without regard  
17 to whether such service began  
18 during or in conjunction with a  
19 course of graduate medical edu-  
20 cation.

21 “(cc) An alien physician  
22 shall not be required to submit  
23 an employment contract with a  
24 term exceeding the balance of the  
25 5-year commitment yet to be

1 served, nor an employment con-  
2 tract dated within a minimum  
3 time period prior to filing of a  
4 visa petition pursuant to this  
5 subsection.

6 “(dd) An alien physician  
7 shall not be required to file addi-  
8 tional immigrant visa petitions  
9 upon a change of work location  
10 from the location approved in the  
11 original national interest immi-  
12 grant petition.

13 “(III) STATUTORY CONSTRUC-  
14 TION.—Nothing in this subparagraph  
15 may be construed to prevent the filing  
16 of a petition with the Secretary of  
17 Homeland Security for classification  
18 under section 204(a), by an alien phy-  
19 sician described in subclause (I) prior  
20 to the date by which such alien physi-  
21 cian has completed the service de-  
22 scribed in subclause (II) or in section  
23 214(l).

24 “(C) GUIDANCE AND RULES.—The Sec-  
25 retary may prescribe such policy guidance and

1 rules as the Secretary considers appropriate for  
2 purposes of subparagraph (A) to ensure na-  
3 tional security and promote the interests and  
4 competitiveness of the United States. Such  
5 rules shall include a definition of the term ‘Fed-  
6 eral national security, science, and technology  
7 laboratories, centers, and agencies’ for purposes  
8 of clause (ii) of subparagraph (A), which shall  
9 include the following:

10 “(i) The national security, science,  
11 and technology laboratories, centers, and  
12 agencies of the Department of Defense, the  
13 Department of Energy, the Department of  
14 Homeland Security, the elements of the in-  
15 telligence community (as that term is de-  
16 fined in section 4(3) of the National Secu-  
17 rity Act of 1947), and any other depart-  
18 ment or agency of the Federal Government  
19 that conducts or funds research and devel-  
20 opment in the essential national interest.

21 “(ii) Federally funded research and  
22 development centers (FFRDCs) that are  
23 primarily supported by a department or  
24 agency of the Federal Government speci-  
25 fied in clause (i).”.



1           (3) SKILLED WORKERS, PROFESSIONALS, AND  
2       OTHER WORKERS.—

3           (A) IN GENERAL.—Section 203(b)(3)(A)  
4       (8 U.S.C. 1153(b)(3)(A)) is amended by strik-  
5       ing “in a number not to exceed 28.6 percent of  
6       such worldwide level, plus any visas not re-  
7       quired for the classes specified in paragraphs  
8       (1) and (2),” and inserting “in a number not  
9       to exceed 40 percent of the worldwide level au-  
10      thorized in section 201(d), plus any visas not  
11      required for the class specified in paragraph  
12      (2),”.

13          (B) MEDICAL LICENSE REQUIREMENTS.—  
14      Section 214(i)(2)(A) (8 U.S.C. 1184(i)(2)(A))  
15      is amended by adding at the end “including in  
16      the case of a medical doctor, the licensure re-  
17      quired to practice medicine in the United  
18      States,”.

19          (C) REPEAL OF LIMITATION ON OTHER  
20      WORKERS.—Section 203(b)(3) (8 U.S.C.  
21      1153(b)(3)) is amended—

22              (i) by striking subparagraph (B); and  
23              (ii) redesignated subparagraph (C) as  
24      subparagraph (B).

1           (4) CERTAIN SPECIAL IMMIGRANTS.—Section  
2       203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by  
3       striking “in a number not to exceed 7.1 percent of  
4       such worldwide level,” and inserting “in a number  
5       not to exceed 10 percent of the worldwide level au-  
6       thorized in section 201(d), plus any visas not re-  
7       quired for the class specified in paragraph (3),”.

8           (5) EMPLOYMENT CREATION.—Section  
9       203(b)(5)(A) (8 U.S.C. 1153(b)(5)(A)) is amended  
10      by striking “in a number not to exceed 7.1 percent  
11      of such worldwide level,” and inserting “in a number  
12      not to exceed 10 percent of the worldwide level au-  
13      thorized in section 201(d), plus any visas not re-  
14      quired for the class specified in paragraph (4),”.

15      (d) NATURALIZATION OF EMPLOYEES OF CERTAIN  
16      NATIONAL SECURITY FACILITIES WITHOUT REGARD TO  
17      RESIDENCY REQUIREMENTS.—Section 316 (8 U.S.C.  
18      1427) is amended by adding at the end the following:

19      “(g)(1) Any person who, while an alien or a noncit-  
20      izen national of the United States, has been employed in  
21      a research capacity at a Federal national security, science,  
22      and technology laboratory, center, or agency (as defined  
23      pursuant to section 203(b)(2)(C)) for a period or periods  
24      aggregating one year or more may, in the discretion of

1 the Secretary, be naturalized without regard to the resi-  
2 dence requirements of this section if the person—

3 “(A) has complied with all requirements as de-  
4 termined by the Secretary of Homeland Security, the  
5 Secretary of Defense, the Secretary of Energy, or  
6 the head of a petitioning department or agency of  
7 the Federal Government, including contractual re-  
8 quirements to maintain employment in a research  
9 capacity with a Federal national security, science,  
10 and technology laboratory, center, or agency for a  
11 period not to exceed five years; and

12 “(B) has favorably completed and adjudicated a  
13 background investigation at the appropriate level,  
14 from the employing department or agency of the  
15 Federal Government within the last five years.

16 “(2) The number of aliens or noncitizen nationals  
17 naturalized in any fiscal year under this subsection shall  
18 not exceed a number as defined by the Secretary of Home-  
19 land Security, in consultation with the head of the peti-  
20 tioning department or agency of the Federal Govern-  
21 ment.”.

1   **SEC. 2308. INCLUSION OF COMMUNITIES ADVERSELY AF-**  
2                   **FECTED BY A RECOMMENDATION OF THE DE-**  
3                   **FENSE BASE CLOSURE AND REALIGNMENT**  
4                   **COMMISSION AS TARGETED EMPLOYMENT**  
5                   **AREAS.**

6           (a) IN GENERAL.—Section 203(b)(5)(B)(ii) (8  
7 U.S.C. 1153(b)(5)(B)(ii)) is amended by inserting “, any  
8 community adversely affected by a recommendation by the  
9 Defense Base Closure and Realignment Commission,”  
10 after “rural area”.

11          (b) REGULATIONS.—The Secretary, in consultation  
12 with the Secretary of Defense, shall implement the amend-  
13 ment made by subsection (a) through appropriate regula-  
14 tions.

15   **SEC. 2309. V NONIMMIGRANT VISAS.**

16          (a) NONIMMIGRANT ELIGIBILITY.—Subparagraph  
17 (V) of section 101(a)(15) (8 U.S.C. 1101(a)(15)) is  
18 amended to read as follows:

19                   “(V)(i) subject to section 214(q)(1) and  
20                   section 212(a)(4), an alien who is the bene-  
21                   ficiary of an approved petition under section  
22                   203(a) as—

23                               “(I) the unmarried son or unmarried  
24                               daughter of a citizen of the United States;

1 “(II) the unmarried son or unmarried  
2 daughter of an alien lawfully admitted for  
3 permanent residence; or

4 “(III) the married son or married  
5 daughter of a citizen of the United States  
6 and who is 31 years of age or younger; or

7 “(ii) subject to section 214(q)(2), an alien  
8 who is—

9 “(I) the sibling of a citizen of the  
10 United States; or

11 “(II) the married son or married  
12 daughter of a citizen of the United States  
13 and who is older than 31 years of age;”.

14 (b) EMPLOYMENT AND PERIOD OF ADMISSION OF  
15 NONIMMIGRANTS DESCRIBED IN SECTION  
16 101(A)(15)(V).—Section 214(q) (8 U.S.C. 1184(q)) is  
17 amended to read as follows:

18 “(q) NONIMMIGRANTS DESCRIBED IN SECTION  
19 101(A)(15)(V).—

20 “(1) CERTAIN SONS AND DAUGHTERS.—

21 “(A) EMPLOYMENT AUTHORIZATION.—The  
22 Secretary shall—

23 “(i) authorize a nonimmigrant admit-  
24 ted pursuant to section 101(a)(15)(V)(i) to  
25 engage in employment in the United States

1                   during the period of such nonimmigrant's  
2                   authorized admission; and

3                   “(ii) provide such a nonimmigrant  
4                   with an ‘employment authorized’ endorse-  
5                   ment or other appropriate document signi-  
6                   fying authorization of employment.

7                   “(B) TERMINATION OF ADMISSION.—The  
8                   period of authorized admission for such a non-  
9                   immigrant shall terminate 30 days after the  
10                  date on which—

11                  “(i) such nonimmigrant's application  
12                  for an immigrant visa pursuant to the ap-  
13                  proval of a petition under subsection (a) or  
14                  (c) of section 203 is denied; or

15                  “(ii) such nonimmigrant's application  
16                  for adjustment of status under section 245  
17                  pursuant to the approval of such a petition  
18                  is denied.

19                  “(2) SIBLINGS AND SONS AND DAUGHTERS OF  
20                  CITIZENS.—

21                  “(A) EMPLOYMENT AUTHORIZATION.—The  
22                  Secretary may not authorize a nonimmigrant  
23                  admitted pursuant to section 101(a)(15)(V)(ii)  
24                  to engage in employment in the United States.

1                   “(B) PERIOD OF ADMISSION.—The period  
2                   of authorized admission as such a non-  
3                   immigrant may not exceed 60 days per fiscal  
4                   year.

5                   “(C) TREATMENT OF PERIOD OF ADMIS-  
6                   SION.—An alien admitted under section  
7                   101(a)(15)(V) may not receive an allocation of  
8                   points pursuant to section 203(c) for residence  
9                   in the United States while admitted as such a  
10                  nonimmigrant.”.

11               (c) PUBLIC BENEFITS.—A noncitizen who is lawfully  
12               present in the United States pursuant to section  
13               101(a)(15)(V) of the Immigration and Nationality Act (8  
14               U.S.C. 1101(a)(15)(V)) is not eligible for any means-test-  
15               ed public benefits (as such term is defined and imple-  
16               mented in section 403 of the Personal Responsibility and  
17               Work Opportunity Reconciliation Act of 1996 (8 U.S.C.  
18               1613)). A noncitizen admitted under this section—

19               (1) is not entitled to the premium assistance  
20               tax credit authorized under section 36B of the Inter-  
21               nal Revenue Code of 1986 for his or her coverage;

22               (2) shall be subject to the rules applicable to in-  
23               dividuals not lawfully present that are set forth in  
24               subsection (e) of such section;

1           (3) shall be subject to the rules applicable to in-  
2       dividuals not lawfully present that are set forth in  
3       section 1402(e) of the Patient Protection and Af-  
4       fordable Care Act (42 U.S.C. 18071(e)); and

5           (4) shall be subject to the rules applicable to in-  
6       dividuals not lawfully present set forth in section  
7       5000A(d)(3) of the Internal Revenue Code of 1986.

8       (d) **EFFECTIVE DATE.**—The amendments made by  
9       this section shall take effect on the first day of the first  
10      fiscal year beginning after the date of the enactment of  
11      this Act.

12   **SEC. 2310. FIANCÉE AND FIANCÉ CHILD STATUS PROTEC-**  
13                           **TION.**

14       (a) **DEFINITION.**—Section 101(a)(15)(K) (8 U.S.C.  
15   1101(a)(15)(K), as amended by section  
16   2305(d)(6)(B)(i)(I), is further amended—

17           (1) in clause (i), by inserting “or of an alien  
18       lawfully admitted for permanent residence” after  
19       “204(a)(1)(H)(i)”; and

20           (2) in clause (ii), by inserting “or of an alien  
21       lawfully admitted for permanent residence” after  
22       “204(a)(1)(H)(i)”; and

23           (3) in clause (iii), by striking the semicolon and  
24       inserting “, provided that a determination of the age  
25       of such child is made using the age of the alien on



1       the date on which the fiancé, fiancée, or immigrant  
2       visa petition is filed with the Secretary of Homeland  
3       Security to classify the alien's parent as the fiancée  
4       or fiancé of a United States citizen or of an alien  
5       lawfully admitted for permanent residence (in the  
6       case of an alien parent described in clause (i)) or as  
7       the spouse of a citizen of the United States or of an  
8       alien lawfully admitted to permanent residence  
9       under section 201(b)(2)(A) (in the case of an alien  
10      parent described in clause (ii));”.

11      (b) ADJUSTMENT OF STATUS AUTHORIZED.—Section  
12 214(d) (8 U.S.C. 1184(d)) is amended—

13           (1) by redesignating paragraphs (2) and (3) as  
14      paragraphs (3) and (4), respectively; and

15           (2) in paragraph (1), by striking “In the event”  
16      and all that follows through the end; and

17           (3) by inserting after paragraph (1) the fol-  
18      lowing:

19      “(2)(A) If an alien does not marry the petitioner  
20      under paragraph (1) within 3 months after the alien and  
21      the alien's children are admitted into the United States,  
22      the visa previously issued under the provisions of section  
23      1101(a)(15)(K)(i) shall automatically expire and such  
24      alien and children shall be required to depart from the  
25      United States. If such aliens fail to depart from the

1 United States, they shall be placed in proceedings in ac-  
2 cordance with sections 240 and 241.

3 “(B) Subject to subparagraphs (C) and (D), if an  
4 alien marries the petitioner described in section  
5 101(a)(15)(K)(i) within 90 days after the alien is admit-  
6 ted into the United States, the Secretary or the Attorney  
7 General, subject to the provisions of section 245(d), may  
8 adjust the status of the alien, and any children accom-  
9 panying or following to join the alien, to that of an alien  
10 lawfully admitted for permanent residence on a conditional  
11 basis under section 216 if the alien and any such children  
12 apply for such adjustment and are not determined to be  
13 inadmissible to the United States. If the alien does not  
14 apply for such adjustment within 6 months after the mar-  
15 riage, the visa issued under the provisions of section  
16 1101(a)(15)(K) shall automatically expire.

17 “(C) Paragraphs (5) and (7)(A) of section 212(a)  
18 shall not apply to an alien who is eligible to apply for ad-  
19 justment of the alien’s status to an alien lawfully admitted  
20 for permanent residence under this section.

21 “(D) An alien eligible for a waiver of inadmissibility  
22 as otherwise authorized under this Act or the Border Se-  
23 curity, Economic Opportunity, and Immigration Mod-  
24 ernization Act shall be permitted to apply for adjustment

1 of the alien's status to that of an alien lawfully admitted  
2 for permanent residence under this section.”.

3 (c) AGE DETERMINATION.—Section 245(d) (8 U.S.C.  
4 1255(d)) is amended—

5 (1) by striking “The Attorney General” and in-  
6 serting “(1) The Secretary of Homeland Security”;

7 (2) in paragraph (1), as redesignated, by strik-  
8 ing “Attorney General” and inserting “Secretary”;  
9 and

10 (3) by adding at the end the following:

11 “(2) A determination of the age of an alien admitted  
12 to the United States under section 101(a)(15)(K)(iii) shall  
13 be made, for purposes of adjustment to the status of an  
14 alien lawfully admitted for permanent residence on a con-  
15 ditional basis under section 216, using the age of the alien  
16 on the date on which the fiancé, fiancée, or immigrant visa  
17 petition was filed with the Secretary of Homeland Security  
18 to classify the alien's parent as the fiancée or fiancé of  
19 a United States citizen or of an alien lawfully admitted  
20 to permanent residence (in the case of an alien parent ad-  
21 mitted to the United States under section  
22 101(a)(15)(K)(i)) or as the spouse of a United States cit-  
23 izen or of an alien lawfully admitted to permanent resi-  
24 dence under section 201(b)(2)(A) (in the case of an alien

1 parent admitted to the United States under section  
2 101(a)(15)(K)(ii)).”.

3 (d) APPLICABILITY.—The amendments made by this  
4 section shall apply to all petitions or applications described  
5 in such amendments that are pending as of the date of  
6 the enactment of the Border Security, Economic Oppor-  
7 tunity, and Immigration Modernization Act.

8 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) DEFINITIONS.—Section 101(a)(15)(K) (8  
10 U.S.C. 1101(a)(15)(K)), as amended by subsection  
11 (a), is further amended—

12 (A) in clause (ii), by striking “section  
13 201(b)(2)(A)(i)” and inserting “section  
14 201(b)(2)”; and

15 (B) in clause (iii), by striking “section  
16 201(b)(2)(A)(i)” and inserting “section  
17 201(b)(2)”.

18 (2) AGE DETERMINATION.—Paragraph (2) of  
19 section 245(d) (8 U.S.C. 1255(d)), as added by sub-  
20 section (c), is amended by striking section  
21 “201(b)(2)(A)(i)” and inserting “201(b)(2)”.

22 (3) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall take effect on the first day  
24 of the first fiscal year beginning no earlier than 1  
25 year after the date of the enactment of this Act.

1   **SEC. 2311. EQUAL TREATMENT FOR ALL STEPCHILDREN.**

2           Section 101(b)(1)(B) (8 U.S.C. 1101(b)(1)(B)) is  
3 amended by striking “eighteen years” and inserting “21  
4 years”.

5   **SEC. 2312. MODIFICATION OF ADOPTION AGE REQUIRE-**  
6                   **MENTS.**

7           Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amend-  
8 ed—

9                   (1) in subparagraph (E)—

10                       (A) by striking “(E)(i)” and inserting  
11                       “(E)”;

12                       (B) by striking “under the age of sixteen  
13 years” and inserting “younger than 18 years of  
14 age, or a child adopted when 18 years of age  
15 or older if the adopting parent or parents initi-  
16 ated the legal adoption process before the child  
17 reached 18 years of age”;

18                       (C) by striking “; or” and inserting a  
19 semicolon; and

20                       (D) by striking clause (ii);

21                   (2) in subparagraph (F)—

22                       (A) by striking “(F)(i)” and inserting  
23                       “(F)”;

24                       (B) by striking “sixteen” and inserting  
25                       “18”;

1 (C) by striking “Attorney General” and in-  
2 serting “Secretary of Homeland Security”; and  
3 (D) by striking clause (ii); and  
4 (3) in subparagraph (G), by striking “16” and  
5 inserting “18”.

6 **SEC. 2313. RELIEF FOR ORPHANS, WIDOWS, AND WID-**  
7 **OWERS.**

8 (a) IN GENERAL.—

9 (1) SPECIAL RULE FOR ORPHANS AND  
10 SPOUSES.—In applying clauses (iii) and (iv) of sec-  
11 tion 201(b)(2)(B) of the Immigration and Nation-  
12 ality Act, as added by section 2305(a) of this Act,  
13 to an alien whose citizen or lawful permanent resi-  
14 dent relative died before the date of the enactment  
15 of this Act, the alien relative may file the classifica-  
16 tion petition under section 204(a)(1)(A)(ii) of the  
17 Immigration and Nationality Act not later than 2  
18 years after the date of the enactment of this Act.

19 (2) ELIGIBILITY FOR PAROLE.—If an alien was  
20 excluded, deported, removed, or departed voluntarily  
21 before the date of the enactment of this Act based  
22 solely upon the alien’s lack of classification as an  
23 immediate relative (as defined in section  
24 201(b)(2)(B)(iv) of the Immigration and Nationality

1 Act, as amended by section 2305(a) of this Act) due  
2 to the death of such citizen or resident—

3 (A) such alien shall be eligible for parole  
4 into the United States pursuant to the Sec-  
5 retary's discretionary authority under section  
6 212(d)(5) of such Act (8 U.S.C. 1182(d)(5));  
7 and

8 (B) such alien's application for adjustment  
9 of status shall be considered by the Secretary  
10 notwithstanding section 212(a)(9) of such Act  
11 (8 U.S.C. 1182(a)(9)).

12 (3) ELIGIBILITY FOR PAROLE.—If an alien de-  
13 scribed in section 204(l) of the Immigration and Na-  
14 tionality Act (8 U.S.C. 1154(l)) was excluded, de-  
15 ported, removed, or departed voluntarily before the  
16 date of the enactment of this Act—

17 (A) such alien shall be eligible for parole  
18 into the United States pursuant to the Sec-  
19 retary's discretionary authority under section  
20 212(d)(5) of such Act (8 U.S.C. 1182(d)(5));  
21 and

22 (B) such alien's application for adjustment  
23 of status shall be considered by the Secretary  
24 notwithstanding section 212(a)(9) of such Act  
25 (8 U.S.C. 1182(a)(9)).

1 (b) PROCESSING OF IMMIGRANT VISAS AND DERIVA-  
2 TIVE PETITIONS.—

3 (1) IN GENERAL.—Section 204(b) (8 U.S.C.  
4 1154(b)) is amended—

5 (A) by striking “After an investigation”  
6 and inserting “(1) After an investigation”; and

7 (B) by adding at the end the following:

8 “(2)(A) Any alien described in subparagraph (B)  
9 whose qualifying relative died before the completion of im-  
10 migrant visa processing may have an immigrant visa ap-  
11 plication adjudicated as if such death had not occurred.  
12 An immigrant visa issued before the death of the quali-  
13 fying relative shall remain valid after such death.

14 “(B) An alien described in this subparagraph is an  
15 alien who—

16 “(i) is an immediate relative (as described in  
17 section 201(b)(2)(B));

18 “(ii) is a family-sponsored immigrant (as de-  
19 scribed in subsection (a) or (d) of section 203);

20 “(iii) is a derivative beneficiary of an employ-  
21 ment-based immigrant under section 203(b) (as de-  
22 scribed in section 203(d)); or

23 “(iv) is the spouse or child of a refugee (as de-  
24 scribed in section 207(c)(2)) or an asylee (as de-  
25 scribed in section 208(b)(3)).”.



1           (2) TRANSITION PERIOD.—

2           (A) IN GENERAL.—Notwithstanding a de-  
3           nial or revocation of an application for an immi-  
4           grant visa for an alien due to the death of the  
5           qualifying relative before the date of the enact-  
6           ment of this Act, such application may be re-  
7           newed by the alien through a motion to reopen,  
8           without fee.

9           (B) INAPPLICABILITY OF BARS TO  
10          ENTRY.—Notwithstanding section 212(a)(9) of  
11          the Immigration and Nationality Act (8 U.S.C.  
12          1182(a)(9)), an alien’s application for an immi-  
13          grant visa shall be considered if the alien was  
14          excluded, deported, removed, or departed volun-  
15          tarily before the date of the enactment of this  
16          Act.

17          (c) NATURALIZATION.—Section 319(a) (8 U.S.C.  
18          1430(a)) is amended by striking “States,” and inserting  
19          “States (or if the spouse is deceased, the spouse was a  
20          citizen of the United States),”.

21          (d) WAIVERS OF INADMISSIBILITY.—Section 212 (8  
22          U.S.C. 1182) is amended by adding at the end the fol-  
23          lowing:

24          “(v) CONTINUED WAIVER ELIGIBILITY FOR WIDOWS,  
25          WIDOWERS, AND ORPHANS.—In the case of an alien who

1 would have been statutorily eligible for any waiver of inad-  
2 missibility under this Act but for the death of a qualifying  
3 relative, the eligibility of such alien shall be preserved as  
4 if the death had not occurred and the death of the quali-  
5 fying relative shall be the functional equivalent of hardship  
6 for purposes of any waiver of inadmissibility which re-  
7 quires a showing of hardship.”.

8 (e) SURVIVING RELATIVE CONSIDERATION FOR CER-  
9 TAIN PETITIONS AND APPLICATIONS.—Section 204(l)(1)  
10 (8 U.S.C. 1154(l)(1)) is amended—

11 (1) by striking “who resided in the United  
12 States at the time of the death of the qualifying rel-  
13 ative and who continues to reside in the United  
14 States”; and

15 (2) by striking “related applications,” and in-  
16 serting “related applications (including affidavits of  
17 support),”.

18 (f) FAMILY-SPONSORED IMMIGRANTS.—Section  
19 212(a)(4)(C)(i) (8 U.S.C. 1182(a)(4)(C)(i)), as amended  
20 by section 2305(d)(6)(B)(iii), is further amended by add-  
21 ing at the end the following:

22 “(III) the status as a surviving  
23 relative under 204(l); or”.

1   **SEC. 2314. DISCRETIONARY AUTHORITY WITH RESPECT TO**  
2                   **REMOVAL, DEPORTATION, OR INADMIS-**  
3                   **SIBILITY OF CITIZEN AND RESIDENT IMME-**  
4                   **Diate FAMILY MEMBERS.**

5           (a) APPLICATIONS FOR RELIEF FROM REMOVAL.—  
6   Section 240(c)(4) (8 U.S.C. 1229a(c)(4)) is amended by  
7   adding at the end the following:

8                   “(D) JUDICIAL DISCRETION.—In the case  
9           of an alien subject to removal, deportation, or  
10          inadmissibility, the immigration judge may ex-  
11          ercise discretion to decline to order the alien re-  
12          movable, deportable, or inadmissible from the  
13          United States and terminate proceedings if the  
14          judge determines that such removal, deporta-  
15          tion, or inadmissibility is against the public in-  
16          terest or would result in hardship to the alien’s  
17          United States citizen or lawful permanent resi-  
18          dent parent, spouse, or child, or the judge de-  
19          termines the alien is prima facie eligible for  
20          naturalization except that this subparagraph  
21          shall not apply to an alien whom the judge de-  
22          termines—

23                           “(i) is inadmissible or deportable  
24                           under—

428

1 “(I) subparagraph (B), (C),  
2 (D)(ii), (E), (H), (I), or (J) of section  
3 212(a)(2);

4 “(II) section 212(a)(3);

5 “(III) subparagraph (A), (C), or  
6 (D) of section 212(a)(10); or

7 “(IV) paragraph (2)(A)(ii),  
8 (2)(A)(v), (2)(F), (4), or (6) of sec-  
9 tion 237(a); or

10 “(ii) has—

11 “(I) engaged in conduct de-  
12 scribed in paragraph (8) or (9) of sec-  
13 tion 103 of the Trafficking Victims  
14 Protection Act of 2000 (22 U.S.C.  
15 7102); or

16 “(II) a felony conviction de-  
17 scribed in section 101(a)(43) that  
18 would have been classified as an ag-  
19 gravated felony at the time of convic-  
20 tion.”.

21 (b) SECRETARY’S DISCRETION.—Section 212 (8  
22 U.S.C. 1182), as amended by section 2313(d), is further  
23 amended by adding at the end the following:

24 “(w) SECRETARY’S DISCRETION.—In the case of an  
25 alien who is inadmissible under this section or deportable

1 under section 237, the Secretary of Homeland Security  
2 may exercise discretion to waive a ground of inadmis-  
3 sibility or deportability if the Secretary determines that  
4 such removal or refusal of admission is against the public  
5 interest or would result in hardship to the alien's United  
6 States citizen or permanent resident parent, spouse, or  
7 child. This subsection shall not apply to an alien whom  
8 the Secretary determines—

9 “(1) is inadmissible or deportable under—

10 “(A) subparagraph (B), (C), (D)(ii), (E),  
11 (H), (I), or (J) of subsection (a)(2);

12 “(B) subsection (a)(3);

13 “(C) subparagraph (A), (C), or (D) of sub-  
14 section (a)(10);

15 “(D) paragraphs (2)(A)(ii), (2)(A)(v),  
16 (2)(F), or (6) of section 237(a); or

17 “(E) section 240(c)(4)(D)(ii)(II); or

18 “(2) has—

19 “(A) engaged in conduct described in para-  
20 graph (8) or (9) of section 103 of the Traf-  
21 ficking Victims Protection Act of 2000 (22  
22 U.S.C. 7102); or

23 “(B) a felony conviction described in sec-  
24 tion 101(a)(43) that would have been classified

1 as an aggravated felony at the time of convic-  
2 tion.”.

3 (c) REINSTATEMENT OF REMOVAL ORDERS.—Sec-  
4 tion 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended by strik-  
5 ing the period at the end and inserting “, unless the alien  
6 reentered prior to attaining the age of 18 years, or rein-  
7 statement of the prior order of removal would not be in  
8 the public interest or would result in hardship to the  
9 alien’s United States citizen or permanent resident parent,  
10 spouse, or child.”.

11 **SEC. 2315. WAIVERS OF INADMISSIBILITY.**

12 (a) ALIENS WHO ENTERED AS CHILDREN.—Section  
13 212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(iii)) is amended  
14 by adding at the end the following:

15 “(VI) ALIENS WHO ENTERED AS  
16 CHILDREN.—Clause (i) shall not apply  
17 to an alien who is the beneficiary of  
18 an approved petition under  
19 101(a)(15)(H) and who has earned a  
20 baccalaureate or higher degree from a  
21 United States institution of higher  
22 education (as defined in section  
23 101(a) of the Higher Education Act  
24 of 1965 (20 U.S.C. 1001(a)), and had  
25 not yet reached the age of 16 years at

1 the time of initial entry to the United  
2 States.”.

3 (b) ALIENS UNLAWFULLY PRESENT.—Section  
4 212(a)(9)(B)(v) (8 U.S.C. 1181(a)(9)(B)(v) is amended—

5 (1) by striking “spouse or son or daughter” and  
6 inserting “spouse, son, daughter, or parent”;

7 (2) by striking “extreme”; and

8 (3) by inserting “, child,” after “lawfully resi-  
9 dent spouse”.

10 (c) PREVIOUS IMMIGRATION VIOLATIONS.—Section  
11 212(a)(9)(C)(i) (8 U.S.C. 1182(a)(9)(C)(i)) is amended

12 by adding “, other than an alien described in clause (iii)  
13 or (iv) of subparagraph (B),” after “Any alien”.

14 (d) FALSE CLAIMS.—

15 (1) INADMISSIBILITY.—

16 (A) IN GENERAL.—Section 212(a)(6)(C)  
17 (8 U.S.C. 1182(a)(6)(C)) is amended to read as  
18 follows:

19 “(C) MISREPRESENTATION.—

20 “(i) IN GENERAL.—Any alien who, by  
21 fraud or willfully misrepresenting a mate-  
22 rial fact, seeks to procure (or within the  
23 last 3 years has sought to procure or has  
24 procured) a visa, other documentation, or  
25 admission into the United States or other

1 benefit provided under this Act is inadmis-  
2 sible.

3 “(ii) FALSELY CLAIMING CITIZEN-  
4 SHIP.—

5 “(I) INADMISSIBILITY.—Subject  
6 to subclause (II), any alien who know-  
7 ingly misrepresents himself or herself  
8 to be a citizen of the United States  
9 for any purpose or benefit under this  
10 chapter (including section 274A) or  
11 any other Federal or State law is in-  
12 admissible.

13 “(II) SPECIAL RULE FOR CHIL-  
14 DREN.—An alien shall not be inadmis-  
15 sible under this clause if the misrepre-  
16 sentation described in subclause (I)  
17 was made by the alien when the  
18 alien—

19 “(aa) was under 18 years of  
20 age; or

21 “(bb) otherwise lacked the  
22 mental competence to knowingly  
23 misrepresent a claim of United  
24 States citizenship.



1                   “(iii) WAIVER.—The Attorney General  
2                   or the Secretary of Homeland Security  
3                   may, in the discretion of the Attorney Gen-  
4                   eral or the Secretary, waive the application  
5                   of clause (i) or (ii)(I) for an alien, regard-  
6                   less whether the alien is within or outside  
7                   the United States, if the Attorney General  
8                   or the Secretary finds that a determination  
9                   of inadmissibility to the United States for  
10                  such alien would—

11                   “(I) result in extreme hardship to  
12                  the alien or to the alien’s parent,  
13                  spouse, son, or daughter who is a cit-  
14                  izen of the United States or an alien  
15                  lawfully admitted for permanent resi-  
16                  dence; or

17                   “(II) in the case of a VAWA self-  
18                  petitioner, result in significant hard-  
19                  ship to the alien or a parent or child  
20                  of the alien who is a citizen of the  
21                  United States, an alien lawfully ad-  
22                  mitted for permanent residence, or a  
23                  qualified alien (as defined in section  
24                  431 of the Personal Responsibility

1 and Work Opportunity Reconciliation  
2 Act of 1996 (8 U.S.C. 1641(b))).

3 “(iv) LIMITATION ON REVIEW.—No  
4 court shall have jurisdiction to review a de-  
5 cision or action of the Attorney General or  
6 the Secretary regarding a waiver under  
7 clause (iii).”.

8 (B) CONFORMING AMENDMENT.—Section  
9 212 (8 U.S.C. 1182) is amended by striking  
10 subsection (i).

11 (2) DEPORTABILITY.—Section 237(a)(3)(D) (8  
12 U.S.C. 1227(a)(3)(D)) is amended to read as fol-  
13 lows:

14 “(D) FALSELY CLAIMING CITIZENSHIP.—  
15 Any alien described in section 212(a)(6)(C)(ii)  
16 is deportable.”.

17 **SEC. 2316. CONTINUOUS PRESENCE.**

18 Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amend-  
19 ed to read as follows:

20 “(1) TERMINATION OF CONTINUOUS PERIOD.—  
21 For purposes of this section, any period of contin-  
22 uous residence or continuous physical presence in  
23 the United States shall be deemed to end, except in  
24 the case of an alien who applies for cancellation of  
25 removal under subsection (b)(2), on the date that a

1 notice to appear is filed with the Executive Office  
2 for Immigration Review pursuant to section 240.”.

3 **SEC. 2317. GLOBAL HEALTH CARE COOPERATION.**

4 (a) TEMPORARY ABSENCE OF ALIENS PROVIDING  
5 HEALTH CARE IN DEVELOPING COUNTRIES.—

6 (1) IN GENERAL.—Title III (8 U.S.C. 1401 et  
7 seq.) is amended by inserting after section 317 the  
8 following:

9 **“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING**  
10 **HEALTH CARE IN DEVELOPING COUNTRIES.**

11 “(a) IN GENERAL.—Notwithstanding any other pro-  
12 vision of this Act, the Secretary of Homeland Security  
13 shall allow an eligible alien and the spouse or child of such  
14 alien to reside in a candidate country during the period  
15 that the eligible alien is working as a physician or other  
16 health care worker in a candidate country. During such  
17 period the eligible alien and such spouse or child shall be  
18 considered—

19 “(1) to be physically present and residing in the  
20 United States for purposes of naturalization under  
21 section 316(a); and

22 “(2) to meet the continuous residency require-  
23 ments under section 316(b).

24 “(b) DEFINITIONS.—In this section:

1           “(1) CANDIDATE COUNTRY.—The term ‘can-  
2       didate country’ means a country that the Secretary  
3       of State determines to be—

4           “(A) eligible for assistance from the Inter-  
5       national Development Association, in which the  
6       per capita income of the country is equal to or  
7       less than the historical ceiling of the Inter-  
8       national Development Association for the appli-  
9       cable fiscal year, as defined by the International  
10      Bank for Reconstruction and Development;

11          “(B) classified as a lower middle income  
12      country in the then most recent edition of the  
13      World Development Report for Reconstruction  
14      and Development published by the International  
15      Bank for Reconstruction and Development and  
16      having an income greater than the historical  
17      ceiling for International Development Associa-  
18      tion eligibility for the applicable fiscal year; or

19          “(C) qualified to be a candidate country  
20      due to special circumstances, including natural  
21      disasters or public health emergencies.

22          “(2) ELIGIBLE ALIEN.—The term ‘eligible  
23      alien’ means an alien who—

24          “(A) has been lawfully admitted to the  
25      United States for permanent residence; and

1                   “(B) is a physician or other healthcare  
2                   worker.

3           “(c) CONSULTATION.—The Secretary of Homeland  
4 Security shall consult with the Secretary of State in car-  
5 rying out this section.

6           “(d) PUBLICATION.—The Secretary of State shall  
7 publish—

8                   “(1) not later than 180 days after the date of  
9                   the enactment of the Border Security, Economic Op-  
10                  portunity, and Immigration Modernization Act, a list  
11                  of candidate countries;

12                  “(2) an updated version of the list required by  
13                  paragraph (1) not less often than once each year;  
14                  and

15                  “(3) an amendment to the list required by  
16                  paragraph (1) at the time any country qualifies as  
17                  a candidate country due to special circumstances  
18                  under subsection (b)(1)(C).”.

19           (2) RULEMAKING.—

20                   (A) REQUIREMENT.—Not later than 180  
21                   days after the date of the enactment of this  
22                   Act, the Secretary shall promulgate regulations  
23                   to carry out the amendments made by this sub-  
24                   section.

1 (B) CONTENT.—The regulations promul-  
2 gated pursuant to subparagraph (A) shall—

3 (i) permit an eligible alien (as defined  
4 in section 317A of the Immigration and  
5 Nationality Act, as added by subsection  
6 (a)) and the spouse or child of the eligible  
7 alien to reside in a foreign country to work  
8 as a physician or other healthcare worker  
9 as described in subsection (a) of such sec-  
10 tion 317A for not less than a 12-month pe-  
11 riod and not more than a 24-month period,  
12 and shall permit the Secretary to extend  
13 such period for an additional period not to  
14 exceed 12 months, if the Secretary deter-  
15 mines that such country has a continuing  
16 need for such a physician or other  
17 healthcare worker;

18 (ii) provide for the issuance of docu-  
19 ments by the Secretary to such eligible  
20 alien, and such spouse or child, if appro-  
21 priate, to demonstrate that such eligible  
22 alien, and such spouse or child, if appro-  
23 priate, is authorized to reside in such  
24 country under such section 317A; and

1 (iii) provide for an expedited process  
2 through which the Secretary shall review  
3 applications for such an eligible alien to re-  
4 side in a foreign country pursuant to sub-  
5 section (a) of such section 317A if the Sec-  
6 retary of State determines a country is a  
7 candidate country pursuant to subsection  
8 (b)(1)(C) of such section 317A.

9 (3) TECHNICAL AND CONFORMING AMEND-  
10 MENTS.—

11 (A) DEFINITION.—Section  
12 101(a)(13)(C)(ii) (8 U.S.C. 1101(a)(13)(C)(ii))  
13 is amended by adding “except in the case of an  
14 eligible alien, or the spouse or child of such  
15 alien, who is authorized to be absent from the  
16 United States under section 317A,” at the end.

17 (B) DOCUMENTARY REQUIREMENTS.—Sec-  
18 tion 211(b) (8 U.S.C. 1181(b)) is amended by  
19 inserting “, including an eligible alien author-  
20 ized to reside in a foreign country under section  
21 317A and the spouse or child of such eligible  
22 alien, if appropriate,” after “101(a)(27)(A),”.

23 (C) INELIGIBLE ALIENS.—Section  
24 212(a)(7)(A)(i)(I) (8 U.S.C.  
25 1182(a)(7)(A)(i)(I)) is amended by inserting

1 “other than an eligible alien authorized to re-  
2 side in a foreign country under section 317A  
3 and the spouse or child of such eligible alien, if  
4 appropriate,” after “Act,”.

5 (4) CLERICAL AMENDMENT.—The table of con-  
6 tents of such Act is amended by inserting after the  
7 item relating to section 317 the following:

“Sec. 317A. Temporary absence of aliens providing health care in developing  
countries.”.

8 (b) ATTESTATION BY HEALTH CARE WORKERS.—

9 (1) ATTESTATION REQUIREMENT.—Section  
10 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by add-  
11 ing at the end the following:

12 “(E) HEALTH CARE WORKERS WITH  
13 OTHER OBLIGATIONS.—

14 “(i) IN GENERAL.—An alien who  
15 seeks to enter the United States for the  
16 purpose of performing labor as a physician  
17 or other health care worker is inadmissible  
18 unless the alien submits to the Secretary of  
19 Homeland Security or the Secretary of  
20 State, as appropriate, an attestation that  
21 the alien is not seeking to enter the United  
22 States for such purpose during any period  
23 in which the alien has an outstanding obli-  
24 gation to the government of the alien’s



1 country of origin or the alien's country of  
2 residence.

3 “(ii) OBLIGATION DEFINED.—In this  
4 subparagraph, the term ‘obligation’ means  
5 an obligation incurred as part of a valid,  
6 voluntary individual agreement in which  
7 the alien received financial assistance to  
8 defray the costs of education or training to  
9 qualify as a physician or other health care  
10 worker in consideration for a commitment  
11 to work as a physician or other health care  
12 worker in the alien's country of origin or  
13 the alien's country of residence.

14 “(iii) WAIVER.—The Secretary of  
15 Homeland Security may waive a finding of  
16 inadmissibility under clause (i) if the Sec-  
17 retary determines that—

18 “(I) the obligation was incurred  
19 by coercion or other improper means;

20 “(II) the alien and the govern-  
21 ment of the country to which the alien  
22 has an outstanding obligation have  
23 reached a valid, voluntary agreement,  
24 pursuant to which the alien's obliga-  
25 tion has been deemed satisfied, or the

1 alien has shown to the satisfaction of  
2 the Secretary that the alien has been  
3 unable to reach such an agreement  
4 because of coercion or other improper  
5 means; or

6 “(III) the obligation should not  
7 be enforced due to other extraordinary  
8 circumstances, including undue hard-  
9 ship that would be suffered by the  
10 alien in the absence of a waiver.”.

11 (2) EFFECTIVE DATE.—The amendment made  
12 by paragraph (1) shall take effect on the date that  
13 is 180 days after the date of the enactment of this  
14 Act.

15 (3) APPLICATION.—Not later than the effective  
16 date described in paragraph (2), the Secretary shall  
17 begin to carry out subparagraph (E) of section  
18 212(a)(5) of the Immigration and Nationality Act,  
19 as added by paragraph (1), including the require-  
20 ment for the attestation and the granting of a waiv-  
21 er described in clause (iii) of such subparagraph (E),  
22 regardless of whether regulations to implement such  
23 subparagraph have been promulgated.

1 SEC. 2318. EXTENSION AND IMPROVEMENT OF THE IRAQI  
2 SPECIAL IMMIGRANT VISA PROGRAM.

3       The Refugee Crisis in Iraq Act of 2007 (8 U.S.C.  
4   1157 note) is amended—

5 (1) in section 1242, by amending subsection (c)  
6 to read as follows:

7 “(c) IMPROVED APPLICATION PROCESS.—Not later  
8 than 120 days after the date of the enactment of the Bor-  
9 der Security, Economic Opportunity, and Immigration  
10 Modernization Act, the Secretary of State and the Sec-  
11 retary of Homeland Security, in consultation with the Sec-  
12 retary of Defense, shall improve the efficiency by which  
13 applications for special immigrant visas under section  
14 1244(a) are processed so that all steps incidental to the  
15 issuance of such visas, including required screenings and  
16 background checks, are completed not later than 9 months  
17 after the date on which an eligible alien applies for such  
18 visa.”;

19 (2) in section 1244—

20 (A) in subsection (b)—

21 (i) in paragraph (1)—

22 (I) by amending subparagraph

23 (B) to read as follows:

24 “(B) was or is employed in Iraq on or  
25 after March 20, 2003, for not less than 1 year,  
26 by, or on behalf of—

1 “(i) the United States Government;

2 “(ii) a media or nongovernmental or-  
3 ganization headquartered in the United  
4 States; or

5 “(iii) an organization or entity closely  
6 associated with the United States mission  
7 in Iraq that has received United States  
8 Government funding through an official  
9 and documented contract, award, grant, or  
10 cooperative agreement;”;

11 (II) in subparagraph (C), by  
12 striking “the United States Govern-  
13 ment” and inserting “an entity or or-  
14 ganization described in subparagraph  
15 (B)”; and

16 (III) in subparagraph (D), by  
17 striking by striking “the United  
18 States Government.” and inserting  
19 “such entity or organization.”; and

20 (ii) in paragraph (4)—

21 (I) by striking “A recommenda-  
22 tion” and inserting the following:

23 “(A) IN GENERAL.—Except as provided  
24 under subparagraph (B), a recommendation”;

445

1 (II) by striking “the United  
2 States Government prior” and insert-  
3 ing “an entity or organization de-  
4 scribed in paragraph (1)(B) prior”;  
5 and

6 (III) by adding at the end the  
7 following:

8 “(B) REVIEW PROCESS FOR DENIAL BY  
9 CHIEF OF MISSION.—

10 “(i) IN GENERAL.—An applicant who  
11 has been denied Chief of Mission approval  
12 required by subparagraph (A) shall—

13 “(I) receive a written decision;  
14 and

15 “(II) be provided 120 days from  
16 the date of the decision to request re-  
17 opening of the decision to provide ad-  
18 ditional information, clarify existing  
19 information, or explain any unfavor-  
20 able information.

21 “(ii) SENIOR COORDINATOR.—The  
22 Secretary of State shall designate, in the  
23 Embassy of the United States in Baghdad,  
24 Iraq, a senior coordinator responsible for  
25 overseeing the efficiency and integrity of

1           the processing of special immigrant visas  
2           under this section, who shall be given—

3                   “(I) sufficiently high security  
4                   clearance to review Chief of Mission  
5                   denials in cases that appear to have  
6                   relied upon insufficient or incorrect  
7                   information; and

8                   “(II) responsibility for ensuring  
9                   that an applicant described in clause  
10                  (i) receives the information described  
11                  in clause (i)(I).”; and

12                (B) in subsection (c)(3), by adding at the  
13                end the following:

14                   “(C) SUBSEQUENT FISCAL YEARS.—Not-  
15                   withstanding subparagraphs (A) and (B), and  
16                   consistent with subsection (b), any unused bal-  
17                   ance of the total number of principal aliens who  
18                   may be provided special immigrant status under  
19                   this section in fiscal years 2008 through 2012  
20                   may be carried forward and provided through  
21                   the end of fiscal year 2018.”; and

22                (3) in section 1248, by adding at the end the  
23                following:

24                   “(f) REPORT ON IMPROVEMENTS.—

1           “(1) IN GENERAL.—Not later than 120 days  
2           after the date of the enactment of the Border Secu-  
3           rity, Economic Opportunity, and Immigration Mod-  
4           ernization Act, the Secretary of State and the Sec-  
5           retary of Homeland Security, in consultation with  
6           the Secretary of Defense, shall submit a report, with  
7           a classified annex, if necessary, to—

8                   “(A) the Committee on the Judiciary of  
9           the Senate;

10                   “(B) the Committee on Foreign Relations  
11           of the Senate;

12                   “(C) the Committee on the Judiciary of  
13           the House of Representatives; and

14                   “(D) the Committee on Foreign Affairs of  
15           the House of Representatives.

16           “(2) CONTENTS.—The report submitted under  
17           paragraph (1) shall describe the implementation of  
18           improvements to the processing of applications for  
19           special immigrant visas under section 1244(a), in-  
20           cluding information relating to—

21                   “(A) enhancing existing systems for con-  
22           ducting background and security checks of per-  
23           sons applying for special immigrant status,  
24           which shall—

25                   “(i) support immigration security; and

1 “(ii) provide for the orderly processing  
2 of such applications without delay;

3 “(B) the financial, security, and personnel  
4 considerations and resources necessary to carry  
5 out this subtitle;

6 “(C) the number of aliens who have ap-  
7 plied for special immigrant visas under section  
8 1244 during each month of the preceding fiscal  
9 year;

10 “(D) the reasons for the failure to expedi-  
11 tiously process any applications that have been  
12 pending for longer than 9 months;

13 “(E) the total number of applications that  
14 are pending due to the failure—

15 “(i) to receive approval from the Chief  
16 of Mission;

17 “(ii) for U.S. Citizenship and Immi-  
18 gration Services to complete the adjudica-  
19 tion of the Form I-360;

20 “(iii) to conduct a visa interview; or

21 “(iv) to issue the visa to an eligible  
22 alien;

23 “(F) the average wait times for an appli-  
24 cant at each of the stages described in subpara-  
25 graph (E);



1                   “(G) the number of denials or rejections at  
2                   each of the stages described in subparagraph  
3                   (E); and

4                   “(H) a breakdown of reasons for denials at  
5                   by the Chief of Mission based on the categories  
6                   already made available to denied special immi-  
7                   grant visa applicants in the denial letter sent to  
8                   them by the Chief of Mission.

9           “(g) PUBLIC QUARTERLY REPORTS.—Not later than  
10 120 days after the date of the enactment of the Border  
11 Security, Economic Opportunity, and Immigration Mod-  
12 ernization Act, and every 3 months thereafter, the Sec-  
13 retary of State and the Secretary of Homeland Security,  
14 in consultation with the Secretary of Defense, shall pub-  
15 lish a report on the website of the Department of State  
16 that describes the efficiency improvements made in the  
17 process by which applications for special immigrant visas  
18 under section 1244(a) are processed, including informa-  
19 tion described in subparagraphs (C) through (H) of sub-  
20 section (f)(2).”.

21 **SEC. 2319. EXTENSION AND IMPROVEMENT OF THE AF-**  
22 **GHAN SPECIAL IMMIGRANT VISA PROGRAM.**

23           Section 602(b) of the Afghan Allies Protection Act  
24 of 2009 (8 U.S.C. 1101 note) is amended—

25                   (1) in paragraph (2)—

1 (A) in subparagraph (A)—

2 (i) by amending clause (ii) to read as  
3 follows:

4 “(ii) was or is employed in Afghani-  
5 stan on or after October 7, 2001, for not  
6 less than 1 year, by, or on behalf of—

7 “(I) the United States Govern-  
8 ment;

9 “(II) a media or nongovern-  
10 mental organization headquartered in  
11 the United States; or

12 “(III) an organization or entity  
13 closely associated with the United  
14 States mission in Afghanistan that  
15 has received United States Govern-  
16 ment funding through an official and  
17 documented contract, award, grant, or  
18 cooperative agreement;”;

19 (ii) in clause (iii), by striking “the  
20 United States Government” and inserting  
21 “an entity or organization described in  
22 clause (ii)”; and

23 (iii) in clause (iv), by striking by  
24 striking “the United States Government.”

1 and inserting “such entity or organiza-  
2 tion.”;

3 (B) by amending subparagraph (B) to read  
4 as follows:

5 “(B) FAMILY MEMBERS.—An alien is de-  
6 scribed in this subparagraph if the alien is—

7 “(i) the spouse or minor child of a  
8 principal alien described in subparagraph  
9 (A) who is accompanying or following to  
10 join the principal alien in the United  
11 States; or

12 “(ii)(I) the spouse, child, parent, or  
13 sibling of a principal alien described in  
14 subparagraph (A), whether or not accom-  
15 panying or following to join; and

16 “(II) has experienced or is experi-  
17 encing an ongoing serious threat as a con-  
18 sequence of the qualifying employment of a  
19 principal alien described in subparagraph  
20 (A).”; and

21 (C) in subparagraph (D)—

22 (i) by striking “A recommendation”  
23 and inserting the following:

1 “(i) IN GENERAL.—Except as pro-  
2 vided under clause (ii), a recommenda-  
3 tion”;

4 (ii) by striking “the United States  
5 Government prior” and inserting “an enti-  
6 ty or organization described in paragraph  
7 (2)(A)(ii) prior”; and

8 (iii) by adding at the end the fol-  
9 lowing:

10 “(ii) REVIEW PROCESS FOR DENIAL  
11 BY CHIEF OF MISSION.—

12 “(I) IN GENERAL.—An applicant  
13 who has been denied Chief of Mission  
14 approval shall—

15 “(aa) receive a written deci-  
16 sion; and

17 “(bb) be provided 120 days  
18 from the date of receipt of such  
19 opinion to request reconsider-  
20 ation of the decision to provide  
21 additional information, clarify ex-  
22 isting information, or explain any  
23 unfavorable information.

24 “(II) SENIOR COORDINATOR.—

25 The Secretary of State shall des-

1                   ignite, in the Embassy of the United  
2                   States in Kabul, Afghanistan, a senior  
3                   coordinator responsible for overseeing  
4                   the efficiency and integrity of the  
5                   processing of special immigrant visas  
6                   under this section, who shall be  
7                   given—

8 “(aa) sufficiently high secu-  
9 rity clearance to review Chief of  
10 Mission denials in cases that ap-  
11 pear to have relied upon insuffi-  
12 cient or incorrect information;  
13 and

“(bb) responsibility for ensuring that an applicant described in subclause (I) receives the information described in subclause (I)(aa).”;

19                   (2) in paragraph (3)(C), by amending clause  
20                   (iii) to read as follows:

21 “(iii) FISCAL YEARS 2014 THROUGH  
22 2018.—For each of the fiscal years 2014  
23 through 2018, the total number of prin-  
24 cipal aliens who may be provided special

1 immigrant status under this section may  
2 not exceed the sum of—

3 “(I) 5,000;

4 “(II) the difference between the  
5 number of special immigrant visas al-  
6 located under this section for fiscal  
7 years 2009 through 2013 and the  
8 number of such allocated visas that  
9 were issued; and

10 “(III) any unused balance of the  
11 total number of principal aliens who  
12 may be provided special immigrant  
13 status in fiscal years 2014 through  
14 2018 that have been carried for-  
15 ward.”;

16 (3) in paragraph (4)—

17 (A) in the heading, by striking “PROHIBI-  
18 TION ON FEES.—” and inserting “APPLICATION  
19 PROCESS.—”;

20 (B) by striking “The Secretary” and in-  
21 serting the following:

22 “(A) IN GENERAL.—Not later than 120  
23 days after the date of enactment of the Border  
24 Security, Economic Opportunity, and Immigra-  
25 tion Modernization Act, the Secretary of State

1           and the Secretary of Homeland Security, in  
2           consultation with the Secretary of Defense,  
3           shall improve the efficiency by which applica-  
4           tions for special immigrant visas under para-  
5           graph (1) are processed so that all steps inci-  
6           dental to the issuance of such visas, including  
7           required screenings and background checks, are  
8           completed not later than 6 months after the  
9           date on which an eligible alien applies for such  
10          visa.

11                 “(B) PROHIBITION ON FEES.—The Sec-  
12          retary”; and

13          (4) by adding at the end the following:

14                 “(12) REPORT ON IMPROVEMENTS.—Not later  
15          than 120 days after the date of the enactment of the  
16          Border Security, Economic Opportunity, and Immi-  
17          gration Modernization Act, the Secretary of State  
18          and the Secretary of Homeland Security, in con-  
19          sultation with the Secretary of Defense, shall submit  
20          to the appropriate committees of Congress a report,  
21          with a classified annex, if necessary, that describes  
22          the implementation of improvements to the proc-  
23          essing of applications for special immigrant visas  
24          under this subsection, including information relating  
25          to—

1           “(A) enhancing existing systems for con-  
2           ducting background and security checks of per-  
3           sons applying for special immigrant status,  
4           which shall—

5                   “(i) support immigration security; and

6                   “(ii) provide for the orderly processing  
7                   of such applications without delay;

8           “(B) the financial, security, and personnel  
9           considerations and resources necessary to carry  
10          out this section;

11          “(C) the number of aliens who have ap-  
12          plied for special immigrant visas under this  
13          subsection during each month of the preceding  
14          fiscal year;

15          “(D) the reasons for the failure to expedi-  
16          tiously process any applications that have been  
17          pending for longer than 9 months;

18          “(E) the total number of applications that  
19          are pending due to the failure—

20                   “(i) to receive approval from the Chief  
21                   of Mission;

22                   “(ii) for U.S. Citizenship and Immi-  
23                   gration Services to complete the adjudica-  
24                   tion of the Form I-360;

25                   “(iii) to conduct a visa interview; or



1                   “(iv) to issue the visa to an eligible  
2                   alien;

3                   “(F) the average wait times for an appli-  
4                   cant at each of the stages described in subpara-  
5                   graph (E);

6                   “(G) the number of denials or rejections at  
7                   each of the stages described in subparagraph  
8                   (E); and

9                   “(H) a breakdown of reasons for denials  
10                  by the Chief of Mission based on the categories  
11                  already made available to denied special immi-  
12                  grant visa applicants in the denial letter sent to  
13                  them by the Chief of Mission.

14               “(13) PUBLIC QUARTERLY REPORTS.—Not  
15               later than 120 days after the date of the enactment  
16               of the Border Security, Economic Opportunity, and  
17               Immigration Modernization Act, and every 3 months  
18               thereafter, the Secretary of State and the Secretary  
19               of Homeland Security, in consultation with the Sec-  
20               retary of Defense, shall publish a report on the  
21               website of the Department of State that describes  
22               the efficiency improvements made in the process by  
23               which applications for special immigrant visas under  
24               this subsection are processed, including information

1 described in subparagraph (C) through (H) of para-  
2 graph (12).”.

3 **SEC. 2320. SPECIAL IMMIGRANT NONMINISTER RELIGIOUS**  
4 **WORKER PROGRAM.**

5 Section 101(a)(27)(C)(ii) (8 U.S.C. 1101  
6 (a)(27)(C)(ii)) is amended in subclauses (II) and (III) by  
7 striking “before September 30, 2015,” both places such  
8 term appears.

9 **SEC. 2321. SPECIAL IMMIGRANT STATUS FOR CERTAIN SUR-**  
10 **VIVING SPOUSES AND CHILDREN.**

11 (a) IN GENERAL.—Section 101(a)(27) (8 U.S.C.  
12 1101(a)(27)) is amended in subparagraph (D)—

13 (1) by inserting “(i)” before “an immigrant  
14 who is an employee”;

15 (2) by inserting “or” after “grant such sta-  
16 tus;” and

17 (3) by inserting after clause (i), as designated  
18 by paragraph (1), the following:

19 “(ii) an immigrant who is the surviving  
20 spouse or child of an employee of the United  
21 States Government abroad killed in the line of  
22 duty, provided that the employee had performed  
23 faithful service for a total of 15 years, or more,  
24 and that the principal officer of a Foreign Serv-  
25 ice establishment (or, in the case of the Amer-

1           ican Institute of Taiwan, the Director thereof)  
2           in his or her discretion, recommends the grant-  
3           ing of special immigrant status to the spouse or  
4           child and the Secretary of State approves such  
5           recommendation and finds that it is in the na-  
6           tional interest to grant such status;”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8   subsection (a) take effect beginning on January 31, 2013,  
9   and shall have retroactive effect.

10   **SEC. 2322. REUNIFICATION OF CERTAIN FAMILIES OF FILI-**  
11                           **PINO VETERANS OF WORLD WAR II.**

12           (a) SHORT TITLE.—This section may be cited as the  
13   “Filipino Veterans Family Reunification Act”.

14           (b) EXEMPTION FROM IMMIGRANT VISA LIMIT.—  
15   Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by  
16   sections 2103(c), 2212(d), and 2307(b), is further amend-  
17   ed by adding at the end the following:

18                   “(O) Aliens who—

19                           “(i) are the sons or daughters of a citizen  
20                   of the United States; and

21                           “(ii) have a parent (regardless of whether  
22                   the parent is living or dead) who was natural-  
23                   ized pursuant to—

1 “(I) section 405 of the Immigration  
2 Act of 1990 (Public Law 101–649; 8  
3 U.S.C. 1440 note); or

4 “(II) title III of the Act of October  
5 14, 1940 (54 Stat. 1137, chapter 876), as  
6 added by section 1001 of the Second War  
7 Powers Act, 1942 (56 Stat. 182, chapter  
8 199).”.

9 **SEC. 2323. ENSURING COMPLIANCE WITH RESTRICTIONS**  
10 **ON WELFARE AND PUBLIC BENEFITS FOR**  
11 **ALIENS.**

12 (a) GENERAL PROHIBITION.—No officer or employee  
13 of the Federal Government may—

14 (1) waive compliance with any requirement in  
15 title IV of the Personal Responsibility and Work Op-  
16 portunity Reconciliation Act of 1996 (8 U.S.C. 1601  
17 et seq.) in effect on the date of enactment of this  
18 Act or with any restriction on eligibility for any form  
19 of assistance or benefit described in section 403(a)  
20 of the Personal Responsibility and Work Oppor-  
21 tunity Reconciliation Act of 1996 (8 U.S.C.  
22 1613(a)) established under a provision of this Act or  
23 an amendment made by this Act;

24 (2) waive the prohibition under subsection  
25 (d)(3) of section 245B of the Immigration and Na-

1        tionality Act (as added by section 2101 of this Act)  
2        on eligibility for Federal means-tested public bene-  
3        fits for any alien granted registered provisional im-  
4        migrant status under section 245B of the Immigra-  
5        tion and Nationality Act;

6            (3) waive the prohibition under subsection  
7        (c)(3) of section 2211 of this Act on eligibility for  
8        Federal means-tested public benefits for any alien  
9        granted blue card status under that section;

10           (4) waive the prohibition under subsection (c)  
11        of section 2309 of this Act on eligibility for Federal  
12        means-tested public benefits for any noncitizen who  
13        is lawfully present in the United States pursuant to  
14        section 101(a)(15)(V) of the Immigration and Na-  
15        tionality Act (8 U.S.C. 1101(a)(15)(V)) (as amend-  
16        ed by section 2309(a)); or

17           (5) waive the prohibition under subsection  
18        (w)(2)(C) of section 214 of the Immigration and Na-  
19        tionality Act (8 U.S.C. 1184(w)(2)(C)) (as added by  
20        section 4504(b) of this Act) on eligibility for any as-  
21        sistance or benefits described in section 403(a) of  
22        the Personal Responsibility and Work Opportunity  
23        Reconciliation Act of 1996 (8 U.S.C. 1613(a)) for  
24        any alien described in section 101(a)(15)(Y) of the  
25        Immigration and Nationality Act (8 U.S.C.

1       1101(a)(15)(Y) (as added by section 4504 of this  
2       Act) who is issued a nonimmigrant visa.

3       (b) ENSURING COMPLIANCE WITH FEDERAL WEL-  
4       FARE LAW.—

5           (1) NO WAIVER OF REQUIREMENTS.—Notwith-  
6       standing section 1115(a) of the Social Security Act  
7       (42 U.S.C. 1315(a)), the Secretary of Health and  
8       Human Services shall not waive compliance by a  
9       State, or otherwise permit a State to not comply,  
10      with the requirements for the temporary assistance  
11      for needy families program referenced in section  
12      408(e) of the Social Security Act (42 U.S.C. 608(e))  
13      and the requirements for that program in section  
14      408(g) of such Act (42 U.S.C. 608(g)).

15          (2) NO WAIVER OF PENALTIES.—The Secretary  
16      of Health and Human Services shall apply section  
17      409 of the Social Security Act (42 U.S.C. 609) to  
18      any State that fails to comply with any of the re-  
19      quirements specified in paragraph (1).

20       **Subtitle D—Conrad State 30 and**  
21       **Physician Access**

22       **SEC. 2401. CONRAD STATE 30 PROGRAM.**

23       Section 220(c) of the Immigration and Nationality  
24      Technical Corrections Act of 1994 (Public Law 103–416;

1 8 U.S.C. 1182 note) is amended by striking “and before  
2 September 30, 2015”.

3 **SEC. 2402. RETAINING PHYSICIANS WHO HAVE PRACTICED**  
4 **IN MEDICALLY UNDERSERVED COMMU-**  
5 **NITIES.**

6 Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended  
7 by sections 2103(c), 2212(d)(2), 2307(b), and 2323(b) is  
8 further amended by adding at the end the following:

9 “(P)(i) Alien physicians who have completed  
10 service requirements of a waiver requested under  
11 section 203(b)(2)(B)(ii), including alien physicians  
12 who completed such service before the date of the  
13 enactment of the Border Security, Economic Oppor-  
14 tunity, and Immigration Modernization Act and any  
15 spouses or children of such alien physicians.

16 “(ii) Nothing in this subparagraph may be con-  
17 strued—

18 “(I) to prevent the filing of a petition with  
19 the Secretary of Homeland Security for classi-  
20 fication under section 204(a) or the filing of an  
21 application for adjustment of status under sec-  
22 tion 245 by an alien physician described in this  
23 subparagraph prior to the date by which such  
24 alien physician has completed the service de-  
25 scribed in section 214(l) or worked full-time as

1 a physician for an aggregate of 5 years at the  
2 location identified in the section 214(l) waiver  
3 or in an area or areas designated by the Sec-  
4 retary of Health and Human Services as having  
5 a shortage of health care professionals; or

6 “(II) to permit the Secretary of Homeland  
7 Security to grant such a petition or application  
8 until the alien has satisfied all the requirements  
9 of the waiver received under section 214(l).”.

10 **SEC. 2403. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

11 (a) IN GENERAL.—Section 214(l)(1)(C) (8 U.S.C.  
12 1184(l)(1)(C)) is amended by striking clauses (i) and (ii)  
13 and inserting the following:

14 “(i) the alien demonstrates a bona fide  
15 offer of full-time employment, at a health care  
16 organization, which employment has been deter-  
17 mined by the Secretary of Homeland Security  
18 to be in the public interest; and

19 “(ii) the alien agrees to begin employment  
20 with the health facility or health care organiza-  
21 tion in a geographic area or areas which are  
22 designated by the Secretary of Health and  
23 Human Services as having a shortage of health  
24 care professionals by the later of the date that  
25 is 90 days after receiving such waiver, 90 days



1           after completing graduate medical education or  
2           training under a program approved pursuant to  
3           section 212(j)(1), or 90 days after receiving  
4           nonimmigrant status or employment authoriza-  
5           tion, provided that the alien or the alien's em-  
6           ployer petitions for such nonimmigrant status  
7           or employment authorization within 90 days of  
8           completing graduate medical education or train-  
9           ing and agrees to continue to work for a total  
10          of not less than 3 years in any status author-  
11          ized for such employment under this subsection,  
12          unless—

13                 “(I) the Secretary determines that ex-  
14                 tenuating circumstances exist that justify a  
15                 lesser period of employment at such facility  
16                 or organization, in which case the alien  
17                 shall demonstrate another bona fide offer  
18                 of employment at a health facility or  
19                 health care organization, for the remainder  
20                 of such 3-year period;

21                 “(II) the interested agency that re-  
22                 quested the waiver attests that extenuating  
23                 circumstances exist that justify a lesser pe-  
24                 riod of employment at such facility or or-  
25                 ganization in which case the alien shall

1 demonstrate another bona fide offer of em-  
2 ployment at a health facility or health care  
3 organization so designated by the Sec-  
4 retary of Health and Human Services, for  
5 the remainder of such 3-year period; or

6 “(III) if the alien elects not to pursue  
7 a determination of extenuating cir-  
8 cumstances pursuant to subclause (I) or  
9 (II), the alien terminates the alien’s em-  
10 ployment relationship with such facility or  
11 organization, in which case the alien shall  
12 be employed for the remainder of such 3-  
13 year period, and 1 additional year for each  
14 termination, at another health facility or  
15 health care organization in a geographic  
16 area or areas which are designated by the  
17 Secretary of Health and Human Services  
18 as having a shortage of health care profes-  
19 sionals; and”.

20 (b) PHYSICIAN EMPLOYMENT IN UNDERSERVED  
21 AREAS.—Section 214(l)(1) (8 U.S.C. 1184(l)(1)), as  
22 amended by subsection (a), is further amended by adding  
23 at the end the following:

24 “(E) If a physician pursuing graduate medical  
25 education or training pursuant to section

1        101(a)(15)(J) applies for a Conrad J–1 waiver with  
2        an interested State department of health and the ap-  
3        plication is denied because the State has requested  
4        the maximum number of waivers permitted for that  
5        fiscal year, the physician’s nonimmigrant status  
6        shall be automatically extended for 6 months if the  
7        physician agrees to seek a waiver under this sub-  
8        section (except for subparagraph (D)(ii)) to work for  
9        an employer in a State that has not yet requested  
10       the maximum number of waivers. The physician  
11       shall be authorized to work only for such employer  
12       from the date on which a new waiver application is  
13       filed with the State until the date on which the Sec-  
14       retary of Homeland Security denies such waiver or  
15       issues work authorization for such employment pur-  
16       suant to the approval of such waiver.”.

17       (c) GRADUATE MEDICAL EDUCATION OR TRAIN-  
18       ING.—Section 214(h)(1), as amended by section 4401(b)  
19       of this Act, is further amended by inserting “(J) (if enter-  
20       ing the United States for graduate medical education or  
21       training),” after “(H)(i)(c),”.

22       (d) CONTRACT REQUIREMENTS.—Section 214(l) (8  
23       U.S.C. 1184(l)) is amended by adding at the end the fol-  
24       lowing:

1       “(4) An alien granted a waiver under paragraph  
2 (1)(C) shall enter into an employment agreement with the  
3 contracting health facility or health care organization  
4 that—

5               “(A) specifies the maximum number of on-call  
6 hours per week (which may be a monthly average)  
7 that the alien will be expected to be available and  
8 the compensation the alien will receive for on-call  
9 time;

10              “(B) specifies whether the contracting facility  
11 or organization will pay for the alien’s malpractice  
12 insurance premiums, including whether the employer  
13 will provide malpractice insurance and, if so, the  
14 amount of such insurance that will be provided;

15              “(C) describes all of the work locations that the  
16 alien will work and a statement that the contracting  
17 facility or organization will not add additional work  
18 locations without the approval of the Federal agency  
19 or State agency that requested the waiver; and

20              “(D) does not include a non-compete provision.

21       “(5) An alien granted a waiver under paragraph  
22 (1)(C) whose employment relationship with a health facil-  
23 ity or health care organization terminates during the 3-  
24 year service period required by such paragraph—

1           “(A) shall have a period of 120 days beginning  
2           on the date of such termination of employment to  
3           submit to the Secretary of Homeland Security appli-  
4           cations or petitions to commence employment with  
5           another contracting health facility or health care or-  
6           ganization in a geographic area or areas which are  
7           designated by the Secretary of Health and Human  
8           Services as having a shortage of health care profes-  
9           sionals;

10           “(B) shall be considered to be maintaining law-  
11           ful status in an authorized stay during the 120-day  
12           period referred to in subsection (A); and

13           “(C) shall not be considered to be fulfilling the  
14           3-year term of service during the 120-day period re-  
15           ferred to in subparagraph (A).”.

16 **SEC. 2404. ALLOTMENT OF CONRAD 30 WAIVERS.**

17           (a) IN GENERAL.—Section 214(l) (8 U.S.C. 1184(l)),  
18           as amended by section 2403, is further amended by adding  
19           at the end the following:

20           “(6)(A)(i) All States shall be allotted a total of 35  
21           waivers under paragraph (1)(B) for a fiscal year if 90 per-  
22           cent of the waivers available to the States receiving at  
23           least 5 waivers were used in the previous fiscal year.

24           “(ii) When an allocation has occurred under clause  
25           (i), all States shall be allotted an additional 5 waivers

1 under paragraph (1)(B) for each subsequent fiscal year  
2 if 90 percent of the waivers available to the States receiv-  
3 ing at least 5 waivers were used in the previous fiscal year.  
4 If the States are allotted 45 or more waivers for a fiscal  
5 year, the States will only receive an additional increase  
6 of 5 waivers the following fiscal year if 95 percent of the  
7 waivers available to the States receiving at least 1 waiver  
8 were used in the previous fiscal year.

9 “(B) Any increase in allotments under subparagraph  
10 (A) shall be maintained indefinitely, unless in a fiscal year,  
11 the total number of such waivers granted is 5 percent  
12 lower than in the last year in which there was an increase  
13 in the number of waivers allotted pursuant to this para-  
14 graph, in which case—

15 “(i) the number of waivers allotted shall be de-  
16 creased by 5 for all States beginning in the next fis-  
17 cal year; and

18 “(ii) each additional 5 percent decrease in such  
19 waivers granted from the last year in which there  
20 was an increase in the allotment, shall result in an  
21 additional decrease of 5 waivers allotted for all  
22 States, provided that the number of waivers allotted  
23 for all States shall not drop below 30.”.

24 (b) ACADEMIC MEDICAL CENTERS.—Section  
25 214(l)(1)(D) (8 U.S.C. 1184(l)(1)(D)) is amended—

1 (1) in clause (ii), by striking “and” at the end;

2 (2) in clause (iii), by striking the period at the

3 end and inserting “; and”; and

4 (3) by adding at the end the following:

5 “(iv) in the case of a request by an inter-  
6 ested State agency—

7 “(I) the head of such agency deter-  
8 mines that the alien is to practice medicine  
9 in, or be on the faculty of a residency pro-  
10 gram at, an academic medical center (as  
11 that term is defined in section  
12 411.355(e)(2) of title 42, Code of Federal  
13 Regulations, or similar successor regula-  
14 tion), without regard to whether such facil-  
15 ity is located within an area designated by  
16 the Secretary of Health and Human Serv-  
17 ices as having a shortage of health care  
18 professionals; and

19 “(II) the head of such agency deter-  
20 mines that—

21 “(aa) the alien physician’s work  
22 is in the public interest; and

23 “(bb) the grant of such waiver  
24 would not cause the number of the  
25 waivers granted on behalf of aliens for

1                   such State for a fiscal year (within  
2                   the limitation in subparagraph (B)  
3                   and subject to paragraph (6)) in ac-  
4                   cordance with the conditions of this  
5                   clause to exceed 3.”.

6   **SEC. 2405. AMENDMENTS TO THE PROCEDURES, DEFINI-**  
7                   **TIONS, AND OTHER PROVISIONS RELATED TO**  
8                   **PHYSICIAN IMMIGRATION.**

9           (a) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-  
10   FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-  
11   SERVED AREAS.—Section 214(l)(2)(A) (8 U.S.C.  
12   1184(l)(2)(A)) is amended by striking “an alien described  
13   in section 101(a)(15)(H)(i)(b).” and inserting “any status  
14   authorized for employment under this Act.”.

15          (b) SHORT TERM WORK AUTHORIZATION FOR PHY-  
16   SICIANS COMPLETING THEIR RESIDENCIES.—A physician  
17   completing graduate medical education or training as de-  
18   scribed in section 212(j) of the Immigration and Nation-  
19   ality Act (8 U.S.C. 1182(j)) as a nonimmigrant described  
20   in section 101(a)(15)(H)(i) of such Act (8 U.S.C.  
21   1101(a)(15)(H)(i)) shall have such nonimmigrant status  
22   automatically extended until October 1 of the fiscal year  
23   for which a petition for a continuation of such non-  
24   immigrant status has been submitted in a timely manner  
25   and where the employment start date for the beneficiary



1 of such petition is October 1 of that fiscal year. Such phy-  
2 sician shall be authorized to be employed incident to status  
3 during the period between the filing of such petition and  
4 October 1 of such fiscal year. However, the physician's  
5 status and employment authorization shall terminate 30  
6 days from the date such petition is rejected, denied, or  
7 revoked. A physician's status and employment authoriza-  
8 tion will automatically extend to October 1 of the next fis-  
9 cal year if all visas as described in such section  
10 101(a)(15)(H)(i) authorized to be issued for the fiscal  
11 year have been issued.

12 (c) APPLICABILITY OF SECTION 212(e) TO SPOUSES  
13 AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse  
14 or child of an exchange visitor described in section  
15 101(a)(15)(J) of the Immigration and Nationality Act (8  
16 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-  
17 ments of section 212(e) of the Immigration and Nation-  
18 ality Act (8 U.S.C. 1182(e)).

## 19 **Subtitle E—Integration**

### 20 **SEC. 2501. DEFINITIONS.**

21 In this subtitle:

22 (1) CHIEF.—The term “Chief” means the Chief  
23 of the Office.

1           (2) FOUNDATION.—The term “Foundation”  
2 means the United States Citizenship Foundation es-  
3 tablished pursuant to section 2531.

4           (3) IEACA GRANTS.—The term “IEACA  
5 grants” means Initial Entry, Adjustment, and Citi-  
6 zenship Assistance grants authorized under section  
7 2537.

8           (4) IMMIGRANT INTEGRATION.—The term “im-  
9 migrant integration” means the process by which  
10 immigrants—

11               (A) join the mainstream of civic life by en-  
12 gaging and sharing ownership in their local  
13 community, the United States, and the prin-  
14 ciples of the Constitution;

15               (B) attain financial self-sufficiency and up-  
16 ward economic mobility for themselves and their  
17 family members; and

18               (C) acquire English language skills and re-  
19 lated cultural knowledge necessary to effectively  
20 participate in their community.

21           (5) LINGUISTIC INTEGRATION.—The term “lin-  
22 guistic integration” means the acquisition, by limited  
23 English proficient individuals, of English language  
24 skills and related cultural knowledge necessary to

1 meaningfully and effectively fulfill their roles as  
2 community members, family members, and workers.

(6) OFFICE.—The term “Office” means the Office of Citizenship and New Americans established in U.S. Citizenship and Immigration Services under section 2511.

(7) RECEIVING COMMUNITIES.—The term “receiving communities” means the long-term residents of the communities in which immigrants settle.

(8) TASK FORCE.—The term “Task Force” means the Task Force on New Americans established pursuant to section 2521.

(9) USCF COUNCIL.—The term “USCF Council” means the Council of Directors of the Foundation.

16      **CHAPTER 1—CITIZENSHIP AND NEW**  
17      **AMERICANS**

18 **Subchapter A—Office of Citizenship and New**  
19 **Americans**

20 SEC. 2511. OFFICE OF CITIZENSHIP AND NEW AMERICANS.

21 (a) RENAMING OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—Beginning on the date of the enactment of this Act, the Office of Citizenship in U.S. Citizenship and Immigration Services shall be

1 referred to as the “Office of Citizenship and New  
2 Americans”.

3 (2) REFERENCES.—Any reference in a law, reg-  
4 ulation, document, paper, or other record of the  
5 United States to the Office of Citizenship in U.S.  
6 Citizenship and Immigration Services shall be  
7 deemed to be a reference to the Office of Citizenship  
8 and New Americans.

9 (3) TECHNICAL AND CONFORMING AMEND-  
10 MENTS.—Section 451 of the Homeland Security Act  
11 of 2002 (6 U.S.C. 271) is amended—

12 (A) in the section heading, by striking  
13 “**BUREAU OF**” and inserting “**U.S.**”;

14 (B) in subsection (a)(1), by striking “the  
15 ‘Bureau of’” and inserting “‘U.S.’”;

16 (C) by striking “the Bureau of” each place  
17 such terms appears and inserting “U.S.”; and

18 (D) in subsection (f)—

19 (i) by amending the subsection head-  
20 ing to read as follows: “OFFICE OF CITI-  
21 ZENSHIP AND NEW AMERICANS”; and

22 (ii) by striking paragraph (1) and in-  
23 serting the following:

24 “(1) CHIEF.—The Office of Citizenship and  
25 New Americans shall be within U.S. Citizenship and

1 Immigration Services and shall be headed by the  
2 Chief of the Office of Citizenship and New Ameri-  
3 cans.”.

4 (b) FUNCTIONS.—Section 451(f) of such Act (6  
5 U.S.C. 271(f)), as amended by subsection (a)(3)(D), is  
6 further amended by striking paragraph (2) and inserting  
7 the following:

8 “(2) FUNCTIONS.—The Chief of the Office of  
9 Citizenship and New Americans shall—

10 “(A) promote institutions and provide  
11 training on citizenship responsibilities for aliens  
12 interested in becoming naturalized citizens of  
13 the United States, including the development of  
14 educational materials for such aliens;

15 “(B) provide general leadership, consulta-  
16 tion, and coordination of the immigrant integra-  
17 tion programs across the Federal Government  
18 and with State and local entities;

19 “(C) in coordination with the Task Force  
20 on New Americans established under section  
21 2521 of the Border Security, Economic Oppor-  
22 tunity, and Immigration Modernization Act—

23 “(i) advise the Director of U.S. Citi-  
24 zenship and Immigration Services, the Sec-

1           retary of Homeland Security, and the Do-  
2           mestic Policy Council, on—

3                   “(I) the challenges and opportu-  
4                   nities relating to the linguistic, eco-  
5                   nomic, and civic integration of immi-  
6                   grants and their young children and  
7                   progress in meeting integration goals  
8                   and indicators; and

9                   “(II) immigrant integration con-  
10                  siderations relating to Federal budg-  
11                  ets;

12                  “(ii) establish national goals for intro-  
13                  ducing new immigrants into the United  
14                  States and measure the degree to which  
15                  such goals are met;

16                  “(iii) evaluate the scale, quality, and  
17                  effectiveness of Federal Government efforts  
18                  in immigrant integration and provide ad-  
19                  vice on appropriate actions; and

20                  “(iv) identify the integration implica-  
21                  tions of new or proposed immigration poli-  
22                  cies and provide recommendations for ad-  
23                  dressing such implications;

24                  “(D) serve as a liaison and intermediary  
25                  with State and local governments and other en-

1           ties to assist in establishing local goals, task  
2           forces, and councils to assist in—

3                   “(i) introducing immigrants into the  
4                   United States; and

5                   “(ii) promoting citizenship education  
6                   and awareness among aliens interested in  
7                   becoming naturalized citizens of the United  
8                   States;

9                   “(E) coordinate with other Federal agen-  
10                  cies to provide information to State and local  
11                  governments on the demand for existing Fed-  
12                  eral and State English education programs and  
13                  best practices for immigrants who recently ar-  
14                  rived in the United States;

15                  “(F) assist States in coordinating the ac-  
16                  tivities of the grant programs authorized under  
17                  sections 2537 and 2538 of the Border Security,  
18                  Economic Opportunity, and Immigration Mod-  
19                  ernization Act;

20                  “(G) submit a biennial report to the appro-  
21                  priate congressional committees that describes  
22                  the activities of the Office of Citizenship and  
23                  New Americans; and

24                  “(H) carry out such other functions and  
25                  activities as Secretary may assign.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 subsections (a) and (b) shall take effect on the date that  
3 is 1 year after the date of the enactment of this Act.

4 **Subchapter B—Task Force on New**  
5 **Americans**

6 **SEC. 2521. ESTABLISHMENT.**

7 (a) IN GENERAL.—The Secretary shall establish a  
8 Task Force on New Americans.

9 (b) FULLY FUNCTIONAL.—The Task Force shall be  
10 fully functional not later than 18 months after the date  
11 of the enactment of this Act.

12 **SEC. 2522. PURPOSE.**

13 The purposes of the Task Force are—

14 (1) to establish a coordinated Federal program  
15 and policy response to immigrant integration issues;  
16 and

17 (2) to advise and assist the Federal Govern-  
18 ment in identifying and fostering policies to carry  
19 out the policies and goals established under this  
20 chapter.

21 **SEC. 2523. MEMBERSHIP.**

22 (a) IN GENERAL.—The Task Force shall be com-  
23 prised of—

24 (1) the Secretary, who shall serve as Chair of  
25 the Task Force;



1 (2) the Secretary of the Treasury;

2 (3) the Attorney General;

3 (4) the Secretary of Commerce;

4 (5) the Secretary of Labor;

5 (6) the Secretary of Health and Human Serv-  
6 ices;

7 (7) the Secretary of Housing and Urban Devel-  
8 opment;

9 (8) the Secretary of Transportation;

10 (9) the Secretary of Education;

11 (10) the Director of the Office of Management  
12 and Budget;

13 (11) the Administrator of the Small Business  
14 Administration;

15 (12) the Director of the Domestic Policy Coun-  
16 cil;

17 (13) the Director of the National Economic  
18 Council; and

19 (14) the National Security Advisor.

20 (b) DELEGATION.—A member of the Task Force may  
21 delegate a senior official, at the Assistant Secretary, Dep-  
22 uty Administrator, Deputy Director, or Assistant Attorney  
23 General level, to perform the functions of a Task Force  
24 member described in section 2524.

1   **SEC. 2524. FUNCTIONS.**

2       (a) MEETINGS; FUNCTIONS.—The Task Force  
3 shall—

4           (1) meet at the call of the Chair; and

5           (2) perform such functions as the Secretary  
6 may prescribe.

7       (b) COORDINATED RESPONSE.—The Task Force  
8 shall work with executive branch agencies—

9           (1) to provide a coordinated Federal response  
10 to issues that impact the lives of new immigrants  
11 and receiving communities, including—

12               (A) access to youth and adult education  
13 programming;

14               (B) workforce training;

15               (C) health care policy;

16               (D) access to naturalization; and

17               (E) community development challenges;

18           and

19           (2) to ensure that Federal programs and poli-  
20 cies adequately address such impacts.

21       (c) LIAISONS.—Members of the Task Force shall  
22 serve as liaisons to their respective agencies to ensure the  
23 quality and timeliness of their agency's participation in ac-  
24 tivities of the Task Force, including—

25           (1) creating integration goals and indicators;

1           (2) implementing the biannual consultation  
2           process with the agency's State and local counter-  
3           parts; and

4           (3) reporting on agency data collection, policy,  
5           and program efforts relating to achieving the goals  
6           and indicators referred to in paragraph (1).

7           (d) RECOMMENDATIONS.—Not later than 18 months  
8           after the end of the period specified in section 2521(b),  
9           the Task Force shall—

10           (1) provide recommendations to the Domestic  
11           Policy Council and the Secretary on the effects of  
12           pending legislation and executive branch policy pro-  
13           posals;

14           (2) suggest changes to Federal programs or  
15           policies to address issues of special importance to  
16           new immigrants and receiving communities;

17           (3) review and recommend changes to policies  
18           that have a distinct impact on new immigrants and  
19           receiving communities; and

20           (4) assist in the development of legislative and  
21           policy proposals of special importance to new immi-  
22           grants and receiving communities.

1                   **CHAPTER 2—PUBLIC-PRIVATE**  
2                   **PARTNERSHIP**  
3   **SEC. 2531. ESTABLISHMENT OF UNITED STATES CITIZEN-**  
4                   **SHIP FOUNDATION.**

5           The Secretary, acting through the Director of U.S.  
6   Citizenship and Immigration Services, is authorized to es-  
7   tablish a nonprofit corporation or a not-for-profit, public  
8   benefit, or similar entity, which shall be known as the  
9   “United States Citizenship Foundation”.

10 **SEC. 2532. FUNDING.**

11           (a) GIFTS TO FOUNDATION.—In order to carry out  
12   the purposes set forth in section 2533, the Foundation  
13   may—

14               (1) solicit, accept, and make gifts of money and  
15               other property in accordance with section 501(c)(3)  
16               of the Internal Revenue Code of 1986;

17               (2) engage in coordinated work with the De-  
18               partment, including the Office and U.S. Citizenship  
19               and Immigration Services; and

20               (3) accept, hold, administer, invest, and spend  
21               any gift, devise, or bequest of real or personal prop-  
22               erty made to the Foundation.

23           (b) GIFTS TO OFFICE OF CITIZENSHIP AND NEW  
24   AMERICANS.—The Office may accept gifts from the Foun-  
25   dation to support the functions of the Office.

1   **SEC. 2533. PURPOSES.**

2       The purposes of the Foundation are—

3           (1) to expand citizenship preparation programs  
4       for lawful permanent residents;

5           (2) to provide direct assistance for aliens seek-  
6       ing provisional immigrant status, legal permanent  
7       resident status, or naturalization as a United States  
8       citizen; and

9           (3) to coordinate immigrant integration with  
10      State and local entities.

11   **SEC. 2534. AUTHORIZED ACTIVITIES.**

12      The Foundation shall carry out its purpose by—

13           (1) making United States citizenship instruc-  
14       tion and naturalization application services acces-  
15       sible to low-income and other underserved lawful  
16       permanent resident populations;

17           (2) developing, identifying, and sharing best  
18       practices in United States citizenship preparation;

19           (3) supporting innovative and creative solutions  
20       to barriers faced by those seeking naturalization;

21           (4) increasing the use of, and access to, tech-  
22       nology in United States citizenship preparation pro-  
23       grams;

24           (5) engaging receiving communities in the  
25       United States citizenship and civic integration proc-  
26       ess;

1           (6) administering the New Citizens Award Pro-  
2           gram to recognize, in each calendar year, not more  
3           than 10 United States citizens who—

4                   (A) have made outstanding contributions  
5           to the United States; and

6                   (B) have been naturalized during the 10-  
7           year period ending on the date of such recogni-  
8           tion;

9           (7) fostering public education and awareness;

10          (8) coordinating its immigrant integration ef-  
11       forts with the Office;

12          (9) awarding grants to eligible public or private  
13       nonprofit organizations under section 2537; and

14          (10) awarding grants to State and local govern-  
15       ments under section 2538.

16 **SEC. 2535. COUNCIL OF DIRECTORS.**

17       (a) MEMBERS.—To the extent consistent with section  
18       501(c)(3) of the Internal Revenue Code of 1986, the  
19       Foundation shall have a Council of Directors, which shall  
20       be comprised of—

21               (1) the Director of U.S. Citizenship and Immi-  
22       gration Services;

23               (2) the Chief of the Office of Citizenship and  
24       New Americans; and

1           (3) 10 directors, appointed by the ex-officio di-  
2       rectors designated in paragraphs (1) and (2), from  
3       national community-based organizations that pro-  
4       mote and assist permanent residents with natu-  
5       ralization.

6       (b) APPOINTMENT OF EXECUTIVE DIRECTOR.—The  
7       USCF Council shall appoint an Executive Director, who  
8       shall oversee the day-to-day operations of the Foundation.

9       **SEC. 2536. POWERS.**

10       The Executive Director is authorized to carry out the  
11       purposes set forth in section 2533 on behalf of the Foun-  
12       dation by—

13           (1) accepting, holding, administering, investing,  
14       and spending any gift, devise, or bequest of real or  
15       personal property made to the Foundation;

16           (2) entering into contracts and other financial  
17       assistance agreements with individuals, public or pri-  
18       vate organizations, professional societies, and gov-  
19       ernment agencies to carry out the functions of the  
20       Foundation;

21           (3) entering into such other contracts, leases,  
22       cooperative agreements, and other transactions as  
23       the Executive Director considers appropriate to  
24       carry out the activities of the Foundation; and

1           (4) charging such fees for professional services  
2           furnished by the Foundation as the Executive Direc-  
3           tor determines reasonable and appropriate.

4   **SEC. 2537. INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP**  
5                   **ASSISTANCE GRANT PROGRAM.**

6           (a) AUTHORIZATION.—The Secretary, acting through  
7           the Director of U.S. Citizenship and Immigration Serv-  
8           ices, may award Initial Entry, Adjustment, and Citizen-  
9           ship Assistance grants to eligible public or private, non-  
10          profit organizations.

11          (b) USE OF GRANT FUNDS.—IEACA grants shall be  
12          used for the design and implementation of programs that  
13          provide direct assistance, within the scope of the author-  
14          ized practice of immigration law—

15                (1) to aliens who are preparing an initial appli-  
16                cation for registered provisional immigrant status  
17                under section 245B of the Immigration and Nation-  
18                ality Act and to aliens who are preparing an initial  
19                application for blue card status under section 2211,  
20                including assisting applicants in—

21                    (A) screening to assess prospective appli-  
22                    cants' potential eligibility or lack of eligibility;

23                    (B) completing applications;

24                    (C) gathering proof of identification, em-  
25                    ployment, residence, and tax payment;



1 (D) gathering proof of relationships of eli-  
2 gible family members;

3 (E) applying for any waivers for which ap-  
4 plicants and qualifying family members may be  
5 eligible; and

6 (F) any other assistance that the Secretary  
7 or grantee considers useful to aliens who are in-  
8 terested in applying for registered provisional  
9 immigrant status;

10 (2) to aliens seeking to adjust their status  
11 under section 245, 245B, 245C, or 245F of the Im-  
12 migration and Nationality Act;

13 (3) to legal permanent residents seeking to be-  
14 come naturalized United States citizens; and

15 (4) to applicants on—

16 (A) the rights and responsibilities of  
17 United States citizenship;

18 (B) civics-based English as a second lan-  
19 guage;

20 (C) civics, with a special emphasis on com-  
21 mon values and traditions of Americans, includ-  
22 ing an understanding of the history of the  
23 United States and the principles of the Con-  
24 stitution; and

25 (D) applying for United States citizenship.

1   **SEC. 2538. PILOT PROGRAM TO PROMOTE IMMIGRANT IN-**  
2                   **TEGRATION AT STATE AND LOCAL LEVELS.**

3           (a) GRANTS AUTHORIZED.—The Chief shall establish  
4 a pilot program through which the Chief may award  
5 grants, on a competitive basis, to States and local govern-  
6 ments or other qualifying entities, in collaboration with  
7 State and local governments—

8               (1) to establish New Immigrant Councils to  
9           carry out programs to integrate new immigrants; or

10              (2) to carry out programs to integrate new im-  
11 migrants.

12           (b) APPLICATION.—A State or local government de-  
13 siring a grant under this section shall submit an applica-  
14 tion to the Chief at such time, in such manner, and con-  
15 taining such information as the Chief may reasonably re-  
16 quire, including—

17               (1) a proposal to meet an objective or combina-  
18 tion of objectives set forth in subsection (d)(3);

19               (2) the number of new immigrants in the appli-  
20 cant's jurisdiction; and

21               (3) a description of the challenges in intro-  
22 ducing and integrating new immigrants into the  
23 State or local community.

24           (c) PRIORITY.—In awarding grants under this sec-  
25 tion, the Chief shall give priority to States and local gov-  
26 ernments or other qualifying entities that—

1           (1) use matching funds from non-Federal  
2 sources, which may include in-kind contributions;

3           (2) demonstrate collaboration with public and  
4 private entities to achieve the goals of the com-  
5 prehensive plan developed pursuant to subsection  
6 (d)(3);

7           (3) are 1 of the 10 States with the highest rate  
8 of foreign-born residents; or

9           (4) have experienced a large increase in the  
10 population of immigrants during the most recent 10-  
11 year period relative to past migration patterns,  
12 based on data compiled by the Office of Immigration  
13 Statistics or the United States Census Bureau.

14       (d) AUTHORIZED ACTIVITIES.—A grant awarded  
15 under this subsection may be used—

16           (1) to form a New Immigrant Council, which  
17 shall—

18               (A) consist of between 15 and 19 individ-  
19 uals, inclusive, from the State, local govern-  
20 ment, or qualifying organization;

21               (B) include, to the extent practicable, rep-  
22 resentatives from—

23                   (i) business;

24                   (ii) faith-based organizations;

25                   (iii) civic organizations;

- 1 (iv) philanthropic organizations;
- 2 (v) nonprofit organizations, including
- 3 those with legal and advocacy experience
- 4 working with immigrant communities;
- 5 (vi) key education stakeholders, such
- 6 as State educational agencies, local edu-
- 7 cational agencies, community colleges, and
- 8 teachers;
- 9 (vii) State adult education offices;
- 10 (viii) State or local public libraries;
- 11 and
- 12 (ix) State or local governments; and
- 13 (C) meet not less frequently than once
- 14 each quarter;
- 15 (2) to provide subgrants to local communities,
- 16 city governments, municipalities, nonprofit organiza-
- 17 tions (including veterans' and patriotic organiza-
- 18 tions), or other qualifying entities;
- 19 (3) to develop, implement, expand, or enhance
- 20 a comprehensive plan to introduce and integrate new
- 21 immigrants into the State by—
- 22 (A) improving English language skills;
- 23 (B) engaging caretakers with limited
- 24 English proficiency in their child's education

1 through interactive parent and child literacy ac-  
2 tivities;

3 (C) improving and expanding access to  
4 workforce training programs;

5 (D) teaching United States history, civics  
6 education, citizenship rights, and responsibil-  
7 ities;

8 (E) promoting an understanding of the  
9 form of government and history of the United  
10 States and the principles of the Constitution;

11 (F) improving financial literacy; and

12 (G) focusing on other key areas of impor-  
13 tance to integration in our society; and

14 (4) to engage receiving communities in the citi-  
15 zenship and civic integration process by—

16 (A) increasing local service capacity;

17 (B) building meaningful connections be-  
18 tween newer immigrants and long-time resi-  
19 dents;

20 (C) communicating the contributions of re-  
21 ceiving communities and new immigrants; and

22 (D) engaging leaders from all sectors of  
23 the community.

24 (e) REPORTING AND EVALUATION.—

1           (1) ANNUAL REPORT.—Each grant recipient  
2       shall submit an annual report to the Office that de-  
3       scribes—

4           (A) the activities undertaken by the grant  
5       recipient, including how such activities meet the  
6       goals of the Office, the Foundation, and the  
7       comprehensive plan described in subsection  
8       (d)(3);

9           (B) the geographic areas being served;

10          (C) the number of immigrants in such  
11       areas; and

12          (D) the primary languages spoken in such  
13       areas.

14       (2) ANNUAL EVALUATION.—The Chief shall  
15       conduct an annual evaluation of the grant program  
16       established under this section—

17           (A) to assess and improve the effectiveness  
18       of such grant program;

19           (B) to assess the future needs of immi-  
20       grants and of State and local governments re-  
21       lated to immigrants; and

22           (C) to ensure that grantees recipients and  
23       subgrantees are acting within the scope and  
24       purpose of this subchapter.

1   **SEC. 2539. NATURALIZATION CEREMONIES.**

2           (a) IN GENERAL.—The Chief, in consultation with  
3 the Director of the National Park Service, the Archivist  
4 of the United States, and other appropriate Federal offi-  
5 cials, shall develop and implement a strategy to enhance  
6 the public awareness of naturalization ceremonies.

7           (b) VENUES.—In developing the strategy under sub-  
8 section (a), the Secretary shall consider the use of out-  
9 standing and historic locations as venues for select natu-  
10 ralization ceremonies.

11          (c) REPORTING REQUIREMENT.—The Secretary shall  
12 annually submit a report to Congress that contains—

13               (1) the content of the strategy developed under  
14 subsection (a); and

15               (2) the progress made towards the implementa-  
16 tion of such strategy.

17                           **CHAPTER 3—FUNDING**

18   **SEC. 2541. AUTHORIZATION OF APPROPRIATIONS.**

19          (a) OFFICE OF CITIZENSHIP AND NEW AMERI-  
20 CANS.—In addition to any amounts otherwise made avail-  
21 able to the Office, there are authorized to be appropriated  
22 to carry out the functions described in section 451(f)(2)  
23 of the Homeland Security Act of 2002 (6 U.S.C.  
24 271(f)(2)), as amended by section 2511(b)—

25               (1) \$10,000,000 for the 5-year period ending  
26 on September 30, 2018; and

1           (2) such sums as may be necessary for fiscal  
2       year 2019 and subsequent fiscal years.

3       (b) GRANT PROGRAMS.—There are authorized to be  
4       appropriated to implement the grant programs authorized  
5       under sections 2537 and 2538, and to implement the  
6       strategy under section 2539—

7           (1) \$100,000,000 for the 5-year period ending  
8       on September 30, 2018; and

9           (2) such sums as may be necessary for fiscal  
10      year 2019 and subsequent fiscal years.

11       **CHAPTER 4—REDUCE BARRIERS TO**  
12       **NATURALIZATION**

13       **SEC. 2551. WAIVER OF ENGLISH REQUIREMENT FOR SEN-**  
14       **IOR NEW AMERICANS.**

15       Section 312 (8 U.S.C. 1423) is amended by striking  
16       subsection (b) and inserting the following:

17       “(b) The requirements under subsection (a) shall not  
18       apply to any person who—

19           “(1) is unable to comply with such require-  
20       ments because of physical or mental disability, in-  
21       cluding developmental or intellectual disability; or

22           “(2) on the date on which the person’s applica-  
23       tion for naturalization is filed under section 334—

24           “(A) is older than 65 years of age; and



1           “(B) has been living in the United States  
2           for periods totaling at least 5 years after being  
3           lawfully admitted for permanent residence.

4           “(c) The requirement under subsection (a)(1) shall  
5           not apply to any person who, on the date on which the  
6           person’s application for naturalization is filed under sec-  
7           tion 334—

8           “(1) is older than 50 years of age and has been  
9           living in the United States for periods totaling at  
10          least 20 years after being lawfully admitted for per-  
11          manent residence;

12          “(2) is older than 55 years of age and has been  
13          living in the United States for periods totaling at  
14          least 15 years after being lawfully admitted for per-  
15          manent residence; or

16          “(3) is older than 60 years of age and has been  
17          living in the United States for periods totaling at  
18          least 10 years after being lawfully admitted for per-  
19          manent residence.

20          “(d) The Secretary of Homeland Security may waive,  
21          on a case-by-case basis, the requirement under subsection  
22          (a)(2) on behalf of any person who, on the date on which  
23          the person’s application for naturalization is filed under  
24          section 334—

25          “(1) is older than 60 years of age; and

1           “(2) has been living in the United States for  
2           periods totaling at least 10 years after being lawfully  
3           admitted for permanent residence.”.

4   **SEC. 2552. FILING OF APPLICATIONS NOT REQUIRING REG-**  
5           **ULAR INTERNET ACCESS.**

6           (a) ELECTRONIC FILING NOT REQUIRED.—

7           (1) IN GENERAL.—The Secretary may not re-  
8           quire that an applicant or petitioner for permanent  
9           residence or citizenship of the United States use an  
10          electronic method to file any application, or access to  
11          a customer account.

12          (2) SUNSET DATE.—This subsection shall cease  
13          to be effective on October 1, 2020.

14          (b) NOTIFICATION REQUIREMENT.—Beginning on  
15          October 1, 2020, the Secretary may not require that an  
16          applicant or petitioner for permanent residence or citizen-  
17          ship of the United States use an electronic method to file  
18          any application or access to a customer account unless the  
19          Secretary notifies the Committee on the Judiciary of the  
20          Senate and the Committee on the Judiciary of the House  
21          of Representatives of such requirement not later than 30  
22          days before the effective date of such requirement.

1 **SEC. 2553. PERMISSIBLE USE OF ASSISTED HOUSING BY**  
2 **BATTERED IMMIGRANTS.**

3 Section 214 of the Housing and Community Develop-  
4 ment Act of 1980 (42 U.S.C. 1436a) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (6), by striking “; or”  
7 and inserting a semicolon;

8 (B) by redesignating paragraph (7) as  
9 paragraph (8); and

10 (C) by inserting after paragraph (6) the  
11 following new paragraph:

12 “(7) a qualified alien described in section  
13 431(c) of the Personal Responsibility and Work Op-  
14 portunity Reconciliation Act of 1996 (8 U.S.C.  
15 1641(c)); or”; and

16 (2) in subsection (c)—

17 (A) in paragraph (1)(A), by striking  
18 “paragraphs (1) through (6)” and inserting  
19 “paragraphs (1) through (7)”; and

20 (B) in paragraph (2)(A), by inserting  
21 “(other than a qualified alien described in sec-  
22 tion 431(c) of the Personal Responsibility and  
23 Work Opportunity Reconciliation Act of 1996  
24 (8 U.S.C. 1641(c)))” after “any alien”.

1   **SEC. 2554. UNITED STATES CITIZENSHIP FOR INTER-**  
2                   **NATIONALLY ADOPTED INDIVIDUALS.**

3           (a) AUTOMATIC CITIZENSHIP.—Section 104 of the  
4 Child Citizenship Act of 2000 (Public Law 106–395; 8  
5 U.S.C. 1431 note) is amended to read as follows:

6   **“SEC. 104. APPLICABILITY.**

7           “The amendments made by this title shall apply to  
8 any individual who satisfies the requirements under sec-  
9 tion 320 or 322 of the Immigration and Nationality Act,  
10 regardless of the date on which such requirements were  
11 satisfied.”.

12          (b) MODIFICATION OF PREADoption VISITATION  
13 REQUIREMENT.—Section 101(b)(1)(F)(i) (8 U.S.C.  
14 1101(b)(1)(F)(i)), as amended by section 2312, is further  
15 amended by striking “at least twenty-five years of age,  
16 who personally saw and observed the child prior to or dur-  
17 ing the adoption proceedings;” and inserting “who is at  
18 least 25 years of age, at least 1 of whom personally saw  
19 and observed the child before or during the adoption pro-  
20 ceedings;”.

21          (c) AUTOMATIC CITIZENSHIP FOR CHILDREN OF  
22 UNITED STATES CITIZENS WHO ARE PHYSICALLY  
23 PRESENT IN THE UNITED STATES.—

24               (1) IN GENERAL.—Section 320(a)(3) (8 U.S.C.  
25 1431(a)(3)) is amended to read as follows:

1           “(3) The child is physically present in the  
2           United States in the legal custody of the citizen par-  
3           ent pursuant to a lawful admission.”.

4           (2) APPLICABILITY TO INDIVIDUAL’S WHO NO  
5           LONGER HAVE LEGAL STATUS.—Notwithstanding  
6           the lack of legal status or physical presence in the  
7           United States, a person shall be deemed to meet the  
8           requirements under section 320 of the Immigration  
9           and Nationality Act, as amended by paragraph (1),  
10          if the person—

11                   (A) was born outside of the United States;

12                   (B) was adopted by a United States citizen  
13           before the person reached 18 years of age;

14                   (C) was legally admitted to the United  
15           States; and

16                   (D) would have qualified for automatic  
17           United States citizenship if the amendments  
18           made by paragraph (1) had been in effect at  
19           the time of such admission.

20          (d) RETROACTIVE APPLICATION.—Section 320(b) (8  
21   U.S.C. 1431(b)) is amended by inserting “, regardless of  
22   the date on which the adoption was finalized” before the  
23   period at the end.

24          (e) APPLICABILITY.—The amendments made by this  
25   section shall apply to any individual adopted by a citizen

1 of the United States regardless of whether the adoption  
2 occurred prior to, on, or after the date of the enactment  
3 of the Child Citizenship Act of 2000.

4 **SEC. 2555. TREATMENT OF CERTAIN PERSONS AS HAVING**  
5 **SATISFIED ENGLISH AND CIVICS, GOOD**  
6 **MORAL CHARACTER, AND HONORABLE SERV-**  
7 **ICE AND DISCHARGE REQUIREMENTS FOR**  
8 **NATURALIZATION.**

9 (a) IMMIGRATION AND NATIONALITY ACT.—The Im-  
10 migration and Nationality Act is amended by inserting  
11 after section 329A (8 U.S.C. 1440–1) the following new  
12 section:

13 **“SEC. 329B. PERSONS WHO HAVE RECEIVED AN AWARD FOR**  
14 **ENGAGEMENT IN ACTIVE COMBAT OR ACTIVE**  
15 **PARTICIPATION IN COMBAT.**

16 “(a) IN GENERAL.—

17 “(1) IN GENERAL.—For purposes of naturaliza-  
18 tion and continuing citizenship under the following  
19 provisions of law, a person who has received an  
20 award described in subsection (b) shall be treated—

21 “(A) as having satisfied the requirements  
22 in sections 312(a), 316(a)(3), and subsections  
23 (b)(3), (c), and (e) of section 328; and

24 “(B) except as provided in paragraph (2),  
25 under sections 328 and 329, as having served

1           honorably in the Armed Forces for (in the case  
2           of section 328) a period or periods aggregating  
3           one year, and, if separated from such service,  
4           as having been separated under honorable con-  
5           ditions.

6           “(2) REVOCATION.—Notwithstanding para-  
7           graph (1)(B), any person who separated from the  
8           Armed Forces under other than honorable conditions  
9           may be subject to revocation of citizenship under  
10          section 328(f) or 329(c) if the other requirements of  
11          such section are met.

12          “(b) APPLICATION.—This section shall apply with re-  
13          spect to the following awards from the Armed Forces of  
14          the United States:

15               “(1) The Combat Infantryman Badge from the  
16               Army.

17               “(2) The Combat Medical Badge from the  
18               Army.

19               “(3) The Combat Action Badge from the Army.

20               “(4) The Combat Action Ribbon from the  
21               Navy, the Marine Corps, or the Coast Guard.

22               “(5) The Air Force Combat Action Medal.

23               “(6) Any other award that the Secretary of De-  
24               fense determines to be an equivalent award for en-

1        gagement in active combat or active participation in  
2        combat.”.

3        (b) CLERICAL AMENDMENT.—The table of contents  
4        of such Act (8 U.S.C. 1101 et seq.) is amended by insert-  
5        ing after the item relating to section 329A the following:

      “Sec. 329B. Persons who have received an award for engagement in active  
         combat or active participation in combat.”.

6                    **TITLE III—INTERIOR**  
7                    **ENFORCEMENT**  
8                    **Subtitle A—Employment**  
9                    **Verification System**

10        **SEC. 3101. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED**  
11                    **ALIENS.**

12        (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a)  
13        is amended to read as follows:

14        **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

15                    **“(a) MAKING EMPLOYMENT OF UNAUTHORIZED**  
16        **ALIENS UNLAWFUL.—**

17                    **“(1) IN GENERAL.—It is unlawful for an em-**  
18        **ployer—**

19                    **“(A) to hire, recruit, or refer for a fee an**  
20        **alien for employment in the United States**  
21        **knowing that the alien is an unauthorized alien**  
22        **with respect to such employment; or**

23                    **“(B) to hire, recruit, or refer for a fee for**  
24        **employment in the United States an individual**



1 without complying with the requirements under  
2 subsections (c) and (d).

3 “(2) CONTINUING EMPLOYMENT.—

4 “(A) PROHIBITION ON CONTINUED EM-  
5 PLOYMENT OF UNAUTHORIZED ALIENS.—It is  
6 unlawful for an employer, after hiring an alien  
7 for employment, to continue to employ the alien  
8 in the United States knowing that the alien is  
9 (or has become) an unauthorized alien with re-  
10 spect to such employment.

11 “(B) PROHIBITION ON CONSIDERATION OF  
12 PREVIOUS UNAUTHORIZED STATUS.—Nothing  
13 in this section may be construed to prohibit the  
14 employment of an individual who is authorized  
15 for employment in the United States if such in-  
16 dividual was previously an unauthorized alien.

17 “(3) USE OF LABOR THROUGH CONTRACT.—

18 For purposes of this section, any employer that uses  
19 a contract, subcontract, or exchange to obtain the  
20 labor of an alien in the United States while knowing  
21 that the alien is an unauthorized alien with respect  
22 to performing such labor shall be considered to have  
23 hired the alien for employment in the United States  
24 in violation of paragraph (1)(A).

1           “(4) USE OF STATE EMPLOYMENT AGENCY  
2       DOCUMENTATION.—For purposes of paragraphs  
3       (1)(B), (5), and (6), an employer shall be deemed to  
4       have complied with the requirements under sub-  
5       section (c) with respect to the hiring of an individual  
6       who was referred for such employment by a State  
7       employment agency (as defined by the Secretary) if  
8       the employer has and retains (for the period and in  
9       the manner described in subsection (c)(3)) appro-  
10      priate documentation of such referral by such agen-  
11      cy, certifying that such agency has complied with the  
12      procedures described in subsection (c) with respect  
13      to the individual’s referral. An employer that relies  
14      on a State agency’s certification of compliance with  
15      subsection (c) under this paragraph may utilize and  
16      retain the State agency’s certification of compliance  
17      with the procedures described in subsection (d), if  
18      any, in the manner provided under this paragraph.

19           “(5) GOOD FAITH DEFENSE.—

20           “(A) DEFENSE.—An employer, person, or  
21      entity that hires, employs, recruits, or refers in-  
22      dividuals for employment in the United States,  
23      or is otherwise obligated to comply with the re-  
24      quirements under this section and establishes  
25      good faith compliance with the requirements

1 under paragraphs (1) through (4) of subsection  
2 (c) and subsection (d)—

3 “(i) has established an affirmative de-  
4 fense that the employer, person, or entity  
5 has not violated paragraph (1)(A) with re-  
6 spect to hiring and employing; and

7 “(ii) has established compliance with  
8 its obligations under subparagraph (A) and  
9 (B) of paragraph (1) and subsection (c)  
10 unless the Secretary demonstrates that the  
11 employer had knowledge that an individ-  
12 uals hired, employed, recruited, or referred  
13 by the employer, person, or entity is an un-  
14 authorized alien.

15 “(B) EXCEPTION FOR CERTAIN EMPLOY-  
16 ERS.—An employer who is not required to par-  
17 ticipate in the System or who is participating in  
18 the System on a voluntary basis pursuant to  
19 subsection (d)(2)(J) has established an affirma-  
20 tive defense under subparagraph (A) and need  
21 not demonstrate compliance with the require-  
22 ments under subsection (d).

23 “(6) GOOD FAITH COMPLIANCE.—

24 “(A) IN GENERAL.—Except as otherwise  
25 provided in this subsection, an employer, per-

1 son, or entity is considered to have complied  
2 with a requirement under this subsection not-  
3 withstanding a technical or procedural failure  
4 to meet such requirement if there was a good  
5 faith attempt to comply with the requirement.

6 “(B) EXCEPTION IF FAILURE TO CORRECT  
7 AFTER NOTICE.—Subparagraph (A) shall not  
8 apply if—

9 “(i) the failure is not de minimis;

10 “(ii) the Secretary of Homeland Secu-  
11 rity has explained to the employer, person,  
12 or entity the basis for the failure and why  
13 it is not de minimis;

14 “(iii) the employer, person, or entity  
15 has been provided a period of not less than  
16 30 days (beginning after the date of the  
17 explanation) to correct the failure; and

18 “(iv) the employer, person, or entity  
19 has not corrected the failure voluntarily  
20 within such period.

21 “(C) EXCEPTION FOR PATTERN OR PRAC-  
22 TICE VIOLATORS.—Subparagraph (A) shall not  
23 apply to an employer, person, or entity that has  
24 engaged or is engaging in a pattern or practice  
25 of violations of paragraph (1)(A) or (2).

1           “(7) PRESUMPTION.—After the date on which  
2           an employer is required to participate in the System  
3           under subsection (d), the employer is presumed to  
4           have acted with knowledge for purposes of para-  
5           graph (1)(A) if the employer hires, employs, re-  
6           cruits, or refers an employee for a fee and fails to  
7           make an inquiry to verify the employment authoriza-  
8           tion status of the employee through the System.

9           “(8) CONTINUED APPLICATION OF WORKFORCE  
10          AND LABOR PROTECTION REMEDIES DESPITE UNAU-  
11          THORIZED EMPLOYMENT.—

12           “(A) IN GENERAL.—Subject only to sub-  
13          paragraph (B), all rights and remedies provided  
14          under any Federal, State, or local law relating  
15          to workplace rights, including but not limited to  
16          back pay, are available to an employee de-  
17          spite—

18           “(i) the employee’s status as an unau-  
19          thorized alien during or after the period of  
20          employment; or

21           “(ii) the employer’s or employee’s fail-  
22          ure to comply with the requirements of  
23          this section.

24           “(B) REINSTATEMENT.—Reinstatement  
25          shall be available to individuals who—

1                   “(i) are authorized to work in the  
2                   United States at the time such relief is or-  
3                   dered or effectuated; or

4                   “(ii) lost employment-authorized sta-  
5                   tus due to the unlawful acts of the em-  
6                   ployer under this section.

7           “(b) DEFINITIONS.—In this section:

8                   “(1) COMMISSIONER.—The term ‘Commis-  
9                   sioner’ means the Commissioner of Social Security.

10                   “(2) DEPARTMENT.—Except as otherwise pro-  
11                   vided, the term ‘Department’ means the Department  
12                   of Homeland Security.

13                   “(3) EMPLOYER.—The term ‘employer’ means  
14                   any person or entity, including an agency or depart-  
15                   ment of a Federal, State, or local government, an  
16                   agent, or a System service provider acting on behalf  
17                   of an employer, that hires, employs, recruits, or re-  
18                   fers for a fee an individual for employment in the  
19                   United States that is not casual, sporadic, irregular,  
20                   or intermittent (as defined by the Secretary).

21                   “(4) EMPLOYMENT AUTHORIZED STATUS.—The  
22                   term ‘employment authorized status’ means, with re-  
23                   spect to an individual, that the individual is author-  
24                   ized to be employed in the United States under the  
25                   immigration laws of the United States.

1           “(5) SECRETARY.—Except as otherwise specifi-  
2 cally provided, the term ‘Secretary’ means the Sec-  
3 retary of Homeland Security.

4           “(6) SYSTEM.—The term ‘System’ means the  
5 Employment Verification System established under  
6 subsection (d).

7           “(7) UNAUTHORIZED ALIEN.—The term ‘unau-  
8 thorized alien’ means an alien who, with respect to  
9 employment in the United States at a particular  
10 time—

11               “(A) is not lawfully admitted for perma-  
12 nent residence; or

13               “(B) is not authorized to be employed  
14 under this Act or by the Secretary.

15           “(8) WORKPLACE RIGHTS.—The term ‘work-  
16 place rights’ means rights guaranteed under Fed-  
17 eral, State, or local labor or employment laws, in-  
18 cluding laws concerning wages and hours, benefits  
19 and employment standards, labor relations, work-  
20 place health and safety, work-related injuries, non-  
21 discrimination, and retaliation for exercising rights  
22 under such laws.

23           “(c) DOCUMENT VERIFICATION REQUIREMENTS.—  
24 Any employer hiring an individual for employment in the  
25 United States shall comply with the following require-

1 ments and the requirements under subsection (d) to verify  
2 that the individual has employment authorized status.

3 “(1) ATTESTATION AFTER EXAMINATION OF  
4 DOCUMENTATION.—

5 “(A) IN GENERAL.—

6 “(i) EXAMINATION BY EMPLOYER.—

7 An employer shall attest, under penalty of  
8 perjury on a form prescribed by the Sec-  
9 retary, that the employer has verified the  
10 identity and employment authorization sta-  
11 tus of the individual—

12 “(I) by examining—

13 “(aa) a document specified  
14 in subparagraph (C); or

15 “(bb) a document specified  
16 in subparagraph (D) and a docu-  
17 ment specified in subparagraph  
18 (E); and

19 “(II) by utilizing an identity au-  
20 thentication mechanism described in  
21 clause (iii) or (iv) of subparagraph  
22 (F).

23 “(ii) PUBLICATION OF DOCUMENTS.—

24 The Secretary shall publish a picture of  
25 each document specified in subparagraphs



1 (C) and (E) on the U.S. Citizenship and  
2 Immigration Services website.

3 “(B) REQUIREMENTS.—

4 “(i) FORM.—The form referred to in  
5 subparagraph (A)(i)—

6 “(I) shall be prescribed by the  
7 Secretary not later than 6 months  
8 after the date of the enactment of the  
9 Border Security, Economic Oppor-  
10 tunity, and Immigration Moderniza-  
11 tion Act;

12 “(II) shall be available as—

13 “(aa) a paper form;

14 “(bb) a form that may be  
15 completed by an employer via  
16 telephone or video conference;

17 “(cc) an electronic form; or

18 “(dd) a form that is inte-  
19 grated electronically with the re-  
20 quirements under subsection (d).

21 “(ii) ATTESTATION.—Each such form  
22 shall require the employer to sign an attes-  
23 tation with a handwritten, electronic, or  
24 digital pin code signature, according to  
25 standards prescribed by the Secretary.

1 “(iii) COMPLIANCE.—An employer has  
2 complied with the requirements under this  
3 paragraph with respect to examination of  
4 the documents included in subclauses (I)  
5 and (II) of subparagraph (A)(i) if—

6 “(I) the employer has, in good  
7 faith, followed applicable regulations  
8 and any written procedures or instruc-  
9 tions provided by the Secretary; and

10 “(II) a reasonable person would  
11 conclude that the documentation is  
12 genuine and relates to the individual  
13 presenting such documentation.

14 “(C) DOCUMENTS ESTABLISHING IDEN-  
15 TITY AND EMPLOYMENT AUTHORIZED STA-  
16 TUS.—A document is specified in this subpara-  
17 graph if the document is unexpired (unless the  
18 validity of the document is extended by law)  
19 and is 1 of the following:

20 “(i) A United States passport or pass-  
21 port card issued to an individual pursuant  
22 to the Secretary of State’s authority under  
23 the Act entitled ‘An Act to regulate the  
24 issue and validity of passports, and for

1 other purposes', approved July 3, 1926 (22  
2 U.S.C. 211a).

3 “(ii) A document issued to an alien  
4 evidencing that the alien is lawfully admit-  
5 ted for permanent residence or another  
6 document issued to an individual evidenc-  
7 ing the individual's employment authorized  
8 status, as designated by the Secretary, if  
9 the document—

10 “(I) contains a photograph of the  
11 individual, or such other personal  
12 identifying information relating to the  
13 individual as the Secretary deter-  
14 mines, by regulation, to be sufficient  
15 for the purposes of this subparagraph;

16 “(II) is evidence of employment  
17 authorized status; and

18 “(III) contains security features  
19 to make the document resistant to  
20 tampering, counterfeiting, and fraudu-  
21 lent use.

22 “(iii) An enhanced driver's license or  
23 identification card issued to a national of  
24 the United States by a State, an outlying

1 possession of the United States, or a feder-  
2 ally recognized Indian tribe that—

3 “(I) meets the requirements  
4 under section 202 of the REAL ID  
5 Act of 2005 (division B of Public Law  
6 109–13; 49 U.S.C. 30301 note); and

7 “(II) the Secretary has certified  
8 by notice published in the Federal  
9 Register and through appropriate no-  
10 tice directly to employers registered in  
11 the System 3 months prior to publica-  
12 tion that such enhanced license or  
13 card is suitable for use under this  
14 subparagraph based upon the accu-  
15 racy and security of the issuance proc-  
16 ess, security features on the docu-  
17 ment, and such other factors as the  
18 Secretary may prescribe.

19 “(iv) A passport issued by the appro-  
20 priate authority of a foreign country ac-  
21 companied by a Form I–94 or Form I–  
22 94A (or similar successor record), or other  
23 documentation as designated by the Sec-  
24 retary that specifies the individual’s status  
25 in the United States and the duration of

1           such status if the proposed employment is  
2           not in conflict with any restriction or limi-  
3           tation specified on such form or docu-  
4           mentation.

5           “(v) A passport issued by the Fed-  
6           erated States of Micronesia or the Repub-  
7           lic of the Marshall Islands with evidence of  
8           nonimmigrant admission to the United  
9           States under the Compact of Free Associa-  
10          tion between the United States and the  
11          Federated States of Micronesia or the Re-  
12          public of the Marshall Islands.

13          “(D) DOCUMENTS ESTABLISHING IDEN-  
14          TITY OF INDIVIDUAL.—A document is specified  
15          in this subparagraph if the document is unex-  
16          pired (unless the validity of the document is ex-  
17          tended by law) and is 1 of the following:

18               “(i) A driver’s license or identity card  
19               that is not described in subparagraph  
20               (C)(iii) and is issued to an individual by a  
21               State or an outlying possession of the  
22               United States, a federally recognized In-  
23               dian tribe, or an agency (including mili-  
24               tary) of the Federal Government if the

1 driver's license or identity card includes, at  
2 a minimum—

3 “(I) the individual's photograph,  
4 name, date of birth, gender, and driv-  
5 er's license or identification card num-  
6 ber; and

7 “(II) security features to make  
8 the license or card resistant to tam-  
9 pering, counterfeiting, and fraudulent  
10 use.

11 “(ii) A voter registration card.

12 “(iii) A document that complies with  
13 the requirements under section 7209(b)(1)  
14 of the Intelligence Reform and Terrorism  
15 Prevention Act of 2004 (Public Law 108–  
16 458; 8 U.S.C. 1185 note).

17 “(iv) For individuals under 18 years  
18 of age who are unable to present a docu-  
19 ment listed in clause (i) or (ii), documenta-  
20 tion of personal identity of such other type  
21 as the Secretary determines will provide a  
22 reliable means of identification, which may  
23 include an attestation as to the individual's  
24 identity by a parent or legal guardian  
25 under penalty of perjury.

1           “(E) DOCUMENTS EVIDENCING EMPLOY-  
2           MENT AUTHORIZATION.—A document is speci-  
3           fied in this subparagraph if the document is un-  
4           expired (unless the validity of the document is  
5           extended by law) and is 1 of the following:

6                   “(i) A social security account number  
7                   card issued by the Commissioner, other  
8                   than a card which specifies on its face that  
9                   the card is not valid to evidence employ-  
10                  ment authorized status or has other simi-  
11                  lar words of limitation.

12                  “(ii) Any other documentation evi-  
13                  dencing employment authorized status that  
14                  the Secretary determines and publishes in  
15                  the Federal Register and through appro-  
16                  priate notice directly to employers reg-  
17                  istered within the System to be acceptable  
18                  for purposes of this subparagraph if such  
19                  documentation, including any electronic se-  
20                  curity measures linked to such documenta-  
21                  tion, contains security features to make  
22                  such documentation resistant to tam-  
23                  pering, counterfeiting, and fraudulent use.

24           “(F) IDENTITY AUTHENTICATION MECHA-  
25           NISM.—

1 “(i) DEFINITIONS.—In this subpara-  
2 graph:

3 “(I) COVERED IDENTITY DOCU-  
4 MENT.—The term ‘covered identity  
5 document’ means a valid—

6 “(aa) United States pass-  
7 port, passport card, or a docu-  
8 ment evidencing lawful perma-  
9 nent residence status or employ-  
10 ment authorized status issued to  
11 an alien;

12 “(bb) enhanced driver’s li-  
13 cense or identity card issued by a  
14 participating State or an outlying  
15 possession of the United States;  
16 or

17 “(cc) photograph and appro-  
18 priate identifying information  
19 provided by the Secretary of  
20 State pursuant to the granting of  
21 a visa.

22 “(II) PARTICIPATING STATE.—  
23 The term ‘participating State’ means  
24 a State that has an agreement with  
25 the Secretary to provide the Sec-



retary, for purposes of identity  
verification in the System, with photo-  
graphs and appropriate identifying in-  
formation maintained by the State.

5 “(ii) REQUIREMENT FOR IDENTITY  
6 AUTHENTICATION.—In addition to  
7 verifying the documents specified in sub-  
8 paragraph (C), (D), or (E) and utilizing  
9 the System under subsection (d), each em-  
10 ployer shall use an identity authentication  
11 mechanism described in clause (iii) or pro-  
12 vided in clause (iv) after it becomes avail-  
13 able to verify the identity of each indi-  
14 vidual the employer seeks to hire.

15 “(iii) PHOTO TOOL.—

“(I) USE REQUIREMENT.—An employer hiring an individual who has a covered identity document shall verify the identity of such individual using the photo tool described in subclause (II).

22 “(II) DEVELOPMENT REQUIRE-  
23 MENT.—The Secretary shall develop  
24 and maintain a photo tool that en-  
25 ables employers to match the photo on

1 a covered identity document provided  
2 to the employer to a photo maintained  
3 by a U.S. Citizenship and Immigra-  
4 tion Services database.

5 “(iv) ADDITIONAL SECURITY MEAS-  
6 URES.—

7 “(I) USE REQUIREMENT.—An  
8 employer seeking to hire an individual  
9 whose identity may not be verified  
10 using the photo tool described in  
11 clause (iii) shall verify the identity of  
12 such individual using the additional  
13 security measures described in sub-  
14 clause (II).

15 “(II) DEVELOPMENT REQUIRE-  
16 MENT.—The Secretary shall develop,  
17 after publication in the Federal Reg-  
18 ister and an opportunity for public  
19 comment, specific and effective addi-  
20 tional security measures to adequately  
21 verify the identity of an individual  
22 whose identity may not be verified  
23 using the photo tool described in  
24 clause (iii). Such additional security  
25 measures—

1                   “(aa) shall be kept up-to-  
2                   date with technological advances;  
3                   and

4                   “(bb) shall provide a means  
5                   of identity authentication in a  
6                   manner that provides a high level  
7                   of certainty as to the identity of  
8                   such individual, using immigra-  
9                   tion and identifying information  
10                  that may include review of iden-  
11                  tity documents or background  
12                  screening verification techniques  
13                  using publicly available informa-  
14                  tion.

15                  “(G) AUTHORITY TO PROHIBIT USE OF  
16                  CERTAIN DOCUMENTS.—If the Secretary deter-  
17                  mines, after publication in the Federal Register  
18                  and an opportunity for public comment, that  
19                  any document or class of documents specified in  
20                  subparagraph (B), (C), or (D) does not reliably  
21                  establish identity or that employment author-  
22                  ized status is being used fraudulently to an un-  
23                  acceptable degree, the Secretary—

1 “(i) may prohibit or restrict the use of  
2 such document or class of documents for  
3 purposes of this subsection; and

4 “(ii) shall directly notify all employers  
5 registered within the System of the prohi-  
6 bition through appropriate means.

7 “(H) AUTHORITY TO ALLOW USE OF CER-  
8 TAIN DOCUMENTS.—If the Secretary has deter-  
9 mined that another document or class of docu-  
10 ments, such as a document issued by a federally  
11 recognized Indian tribe, may be used to reliably  
12 establish identity or employment authorized sta-  
13 tus, the Secretary—

14 “(i) may allow the use of that docu-  
15 ment or class of documents for purposes of  
16 this subsection after publication in the  
17 Federal Register and an opportunity for  
18 public comment;

19 “(ii) shall publish a description of any  
20 such document or class of documents on  
21 the U.S. Citizenship and Immigration  
22 Services website; and

23 “(iii) shall directly notify all employ-  
24 ers registered within the System of the ad-  
25 dition through appropriate means.

1           “(2) INDIVIDUAL ATTESTATION OF EMPLOY-  
2           MENT AUTHORIZATION.—An individual, upon com-  
3           mencing employment with an employer, shall—

4                   “(A) attest, under penalty of perjury, on  
5           the form prescribed by the Secretary, that the  
6           individual is—

7                           “(i) a citizen of the United States;

8                           “(ii) an alien lawfully admitted for  
9           permanent residence;

10                          “(iii) an alien who has employment  
11           authorized status; or

12                          “(iv) otherwise authorized by the Sec-  
13           retary to be hired for such employment;

14                          “(B) provide such attestation by a hand-  
15           written, electronic, or digital pin code signature;  
16           and

17                          “(C) provide the individual’s social security  
18           account number to the Secretary, unless the in-  
19           dividual has not yet been issued such a number,  
20           on such form as the Secretary may require.

21           “(3) RETENTION OF VERIFICATION RECORD.—

22                          “(A) IN GENERAL.—After completing a  
23           form for an individual in accordance with para-  
24           graphs (1) and (2), the employer shall retain a  
25           version of such completed form and make such

1 form available for inspection by the Secretary  
2 or the Office of Special Counsel for Immigra-  
3 tion-Related Unfair Employment Practices of  
4 the Department of Justice during the period be-  
5 ginning on the hiring date of the individual and  
6 ending on the later of—

7 “(i) the date that is 3 years after such  
8 hiring date; or

9 “(ii) the date that is 1 year after the  
10 date on which the individual’s employment  
11 with the employer is terminated.

12 “(B) REQUIREMENT FOR ELECTRONIC RE-  
13 TENTION.—The Secretary—

14 “(i) shall permit an employer to retain  
15 the form described in subparagraph (A) in  
16 electronic form; and

17 “(ii) shall permit an employer to re-  
18 tain such form in paper, microfiche, micro-  
19 film, portable document format, or other  
20 media.

21 “(4) COPYING OF DOCUMENTATION AND REC-  
22 ORDKEEPING.—The Secretary may promulgate regu-  
23 lations regarding—

24 “(A) copying documents and related infor-  
25 mation pertaining to employment verification

1 presented by an individual under this sub-  
2 section; and

3 “(B) retaining such information during a  
4 period not to exceed the required retention pe-  
5 riod set forth in paragraph (3).

6 “(5) PENALTIES.—An employer that fails to  
7 comply with any requirement under this subsection  
8 may be penalized under subsection (e)(4)(B).

9 “(6) PROTECTION OF CIVIL RIGHTS.—

10 “(A) IN GENERAL.—Nothing in this sec-  
11 tion may be construed to diminish any rights  
12 otherwise protected by Federal law.

13 “(B) PROHIBITION ON DISCRIMINATION.—  
14 An employer shall use the procedures for docu-  
15 ment verification set forth in this paragraph for  
16 all employees without regard to race, color, reli-  
17 gion, sex, national origin, or, unless specifically  
18 permitted in this section, to citizenship status.

19 “(7) RECEIPTS.—The Secretary may authorize  
20 the use of receipts for replacement documents, and  
21 temporary evidence of employment authorization by  
22 an individual to meet a documentation requirement  
23 under this subsection on a temporary basis not to  
24 exceed 1 year, after which time the individual shall

1 provide documentation sufficient to satisfy the docu-  
2 mentation requirements under this subsection.

3 “(8) NO AUTHORIZATION OF NATIONAL IDENTI-  
4 FICATION CARDS.—Nothing in this section may be  
5 construed to directly or indirectly authorize the  
6 issuance, use, or establishment of a national identi-  
7 fication card.

8 “(d) EMPLOYMENT VERIFICATION SYSTEM.—

9 “(1) IN GENERAL.—

10 “(A) ESTABLISHMENT.—The Secretary, in  
11 consultation with the Commissioner, shall es-  
12 tablish the Employment Verification System.

13 “(B) MONITORING.—The Secretary shall  
14 create the necessary processes to monitor—

15 “(i) the functioning of the System, in-  
16 cluding the volume of the workflow, the  
17 speed of processing of queries, the speed  
18 and accuracy of responses;

19 “(ii) the misuse of the System, includ-  
20 ing the prevention of fraud or identity  
21 theft;

22 “(iii) whether the use of the System  
23 results in wrongful adverse actions or dis-  
24 crimination based upon a prohibited factor  
25 against citizens or nationals of the United



1 States or individuals who have employment  
2 authorized status; and

3 “(iv) the security, integrity, and pri-  
4 vacy of the System.

5 “(C) PROCEDURES.—The Secretary—

6 “(i) shall create processes to provide  
7 an individual with direct access to the indi-  
8 vidual’s case history in the System, includ-  
9 ing—

10 “(I) the identities of all persons  
11 or entities that have queried the indi-  
12 vidual through the System;

13 “(II) the date of each such  
14 query; and

15 “(III) the System response for  
16 each such query; and

17 “(ii) in consultation with the Commis-  
18 sioner, shall develop—

19 “(I) protocols to notify an indi-  
20 vidual, in a timely manner through  
21 the use of electronic correspondence  
22 or mail, that a query for the indi-  
23 vidual has been processed through the  
24 System; or

1                   “(II) a process for the individual  
2                   to submit additional queries to the  
3                   System or notify the Secretary of po-  
4                   tential identity fraud.

5                   “(2) PARTICIPATION REQUIREMENTS.—

6                   “(A) FEDERAL GOVERNMENT.—Except as  
7                   provided in subparagraph (B), all agencies and  
8                   departments in the executive, legislative, or ju-  
9                   dicial branches of the Federal Government shall  
10                  participate in the System beginning on the ear-  
11                  lier of—

12                  “(i) the date of the enactment of the  
13                  Border Security, Economic Opportunity,  
14                  and Immigration Modernization Act, to the  
15                  extent required under section 402(e)(1) of  
16                  the Illegal Immigration Reform and Immi-  
17                  grant Responsibility Act of 1996 (division  
18                  C of Public Law 104–208; 8 U.S.C.  
19                  1324a) and as already implemented by  
20                  each agency or department; or

21                  “(ii) the date that is 90 days after the  
22                  date of the enactment of the Border Secu-  
23                  rity, Economic Opportunity, and Immigra-  
24                  tion Modernization Act.

1           “(B) FEDERAL CONTRACTORS.—Federal  
2           contractors shall participate in the System as  
3           provided in the final rule relating to employ-  
4           ment eligibility verification published in the  
5           Federal Register on November 14, 2008 (73  
6           Fed. Reg. 67,651), or any similar subsequent  
7           regulation, for which purpose references to E-  
8           Verify in the final rule shall be construed to  
9           apply to the System.

10          “(C) CRITICAL INFRASTRUCTURE.—

11               “(i) IN GENERAL.—Beginning on the  
12               date that is 1 year after the date on which  
13               regulations are published implementing  
14               this subsection, the Secretary may author-  
15               ize or direct any employer, person, or enti-  
16               ty responsible for granting access to, pro-  
17               tecting, securing, operating, administering,  
18               or regulating part of the critical infrastruc-  
19               ture (as defined in section 1016(e) of the  
20               Critical Infrastructure Protection Act of  
21               2001 (42 U.S.C. 5195c(e))) to participate  
22               in the System to the extent the Secretary  
23               determines that such participation will as-  
24               sist in the protection of the critical infra-  
25               structure.

1                   “(ii) NOTIFICATION TO EMPLOY-  
2                   ERS.—The Secretary shall notify an em-  
3                   ployer required to participate in the Sys-  
4                   tem under this subparagraph not later  
5                   than 90 days before the date on which the  
6                   employer is required to participate.

7                   “(D) EMPLOYERS WITH MORE THAN 5,000  
8                   EMPLOYEES.—Not later than 2 years after reg-  
9                   ulations are published implementing this sub-  
10                  section, all employers with more than 5,000 em-  
11                  ployees shall participate in the System with re-  
12                  spect to all newly hired employees and employ-  
13                  ees with expiring temporary employment au-  
14                  thorization documents.

15                  “(E) EMPLOYERS WITH MORE THAN 500  
16                  EMPLOYEES.—Not later than 3 years after reg-  
17                  ulations are published implementing this sub-  
18                  section, all employers with more than 500 em-  
19                  ployees shall participate in the System with re-  
20                  spect to all newly hired employees and employ-  
21                  ees with expiring temporary employment au-  
22                  thorization documents.

23                  “(F) AGRICULTURAL EMPLOYMENT.—Not  
24                  later than 4 years after regulations are pub-  
25                  lished implementing this subsection, employers

1 of employees performing agricultural employ-  
2 ment (as defined in section 218A of this Act  
3 and section 2202 of the Border Security, Eco-  
4 nomic Opportunity, and Immigration Mod-  
5 ernization Act) shall participate in the System  
6 with respect to all newly hired employees and  
7 employees with expiring temporary employment  
8 authorization documents. An agricultural em-  
9 ployee shall not be counted for purposes of sub-  
10 paragraph (D) or (E).

11 “(G) ALL EMPLOYERS.—Except as pro-  
12 vided in subparagraph (H), not later than 4  
13 years after regulations are published imple-  
14 menting this subsection, all employers shall par-  
15 ticipate in the System with respect to all newly  
16 hired employees and employees with expiring  
17 temporary employment authorization docu-  
18 ments.

19 “(H) TRIBAL GOVERNMENT EMPLOY-  
20 ERS.—

21 “(i) RULEMAKING.—In developing  
22 regulations to implement this subsection,  
23 the Secretary shall—

1                   “(I) consider the effects of this  
2                   section on federally recognized Indian  
3                   tribes and tribal members; and

4                   “(II) consult with the govern-  
5                   ments of federally recognized Indian  
6                   tribes.

7                   “(ii) REQUIRED PARTICIPATION.—Not  
8                   later than 5 years after regulations are  
9                   published implementing this subsection, all  
10                  employers owned by, or entities of, the gov-  
11                  ernment of a federally recognized Indian  
12                  tribe shall participate in the System with  
13                  respect to all newly hired employees and  
14                  employees with expiring temporary employ-  
15                  ment authorization documents.

16                  “(I) IMMIGRATION LAW VIOLATORS.—

17                  “(i) ORDERS FINDING VIOLATIONS.—  
18                  An order finding any employer to have vio-  
19                  lated this section or section 274C may, in  
20                  the Secretary’s discretion, require the em-  
21                  ployer to participate in the System with re-  
22                  spect to newly hired employees and em-  
23                  ployees with expiring temporary employ-  
24                  ment authorization documents, if such em-  
25                  ployer is not otherwise required to partici-

1                   pate in the System under this section. The  
2                   Secretary shall monitor such employer's  
3                   compliance with System procedures.

4                   “(ii) PATTERN OR PRACTICE OF VIO-  
5                   LATIONS.—The Secretary may require an  
6                   employer that is required to participate in  
7                   the System with respect to newly hired em-  
8                   ployees to participate in the System with  
9                   respect to the employer's current employ-  
10                  ees if the employer is determined by the  
11                  Secretary or other appropriate authority to  
12                  have engaged in a pattern or practice of  
13                  violations of the immigration laws of the  
14                  United States.

15                  “(J) VOLUNTARY PARTICIPATION.—The  
16                  Secretary may permit any employer that is not  
17                  required to participate in the System under this  
18                  section to do so on a voluntary basis.

19                  “(3) CONSEQUENCE OF FAILURE TO PARTICI-  
20                  PATE.—

21                  “(A) IN GENERAL.—Except as provided in  
22                  subparagraph (B), the failure, other than a de  
23                  minimis or inadvertent failure, of an employer  
24                  that is required to participate in the System to

1           comply with the requirements of the System  
2           with respect to an individual—

3                   “(i) shall be treated as a violation of  
4                   subsection (a)(1)(B) with respect to that  
5                   individual; and

6                   “(ii) creates a rebuttable presumption  
7                   that the employer has violated paragraph  
8                   (1)(A) or (2) of subsection (a).

9                   “(B) EXCEPTION.—

10                   “(i) IN GENERAL.—Subparagraph (A)  
11                   shall not apply in a criminal prosecution.

12                   “(ii) USE AS EVIDENCE.—Nothing in  
13                   this paragraph may be construed to limit  
14                   the use in the prosecution of a Federal  
15                   crime, in a manner otherwise consistent  
16                   with Federal criminal law and procedure,  
17                   of evidence relating to the employer’s fail-  
18                   ure to comply with requirements of the  
19                   System.

20                   “(4) PROCEDURES FOR PARTICIPANTS IN THE  
21                   SYSTEM.—

22                   “(A) IN GENERAL.—An employer partici-  
23                   pating in the System shall register such partici-  
24                   pation with the Secretary and, when hiring any



1 individual for employment in the United States,  
2 shall comply with the following:

3 “(i) REGISTRATION OF EMPLOYERS.—

4 The Secretary, through notice in the Fed-  
5 eral Register, shall prescribe procedures  
6 that employers shall be required to follow  
7 to register with the System.

8 “(ii) UPDATING INFORMATION.—The  
9 employer is responsible for providing notice  
10 of any change to the information required  
11 under subclauses (I), (II), and (III) of  
12 clause (v) before conducting any further  
13 inquiries within the System, or on such  
14 other schedule as the Secretary may pre-  
15 scribe.

16 “(iii) TRAINING.—The Secretary shall  
17 require employers to undergo such training  
18 as the Secretary determines to be nec-  
19 essary to ensure proper use, protection of  
20 civil rights and civil liberties, privacy, in-  
21 tegrity, and security of the System. To the  
22 extent practicable, such training shall be  
23 made available electronically on the U.S.  
24 Citizenship and Immigration Services  
25 website.

1                   “(iv) NOTIFICATION TO EMPLOY-  
2                   EES.—The employer shall inform individ-  
3                   uals hired for employment that the Sys-  
4                   tem—

5                   “(I) will be used by the employer;

6                   “(II) may be used for immigra-  
7                   tion enforcement purposes; and

8                   “(III) may not be used to dis-  
9                   criminate or to take adverse action  
10                  against a national of the United  
11                  States or an alien who has employ-  
12                  ment authorized status.

13                  “(v) PROVISION OF ADDITIONAL IN-  
14                  FORMATION.—The employer shall obtain  
15                  from the individual (and the individual  
16                  shall provide) and shall record in such  
17                  manner as the Secretary may specify—

18                  “(I) the individual’s social secu-  
19                  rity account number;

20                  “(II) if the individual does not  
21                  attest to United States citizenship or  
22                  status as a national of the United  
23                  States under subsection (c)(2), such  
24                  identification or authorization number

1 established by the Department as the  
2 Secretary shall specify; and

3 “(III) such other information as  
4 the Secretary may require to deter-  
5 mine the identity and employment au-  
6 thorization of an individual.

7 “(vi) PRESENTATION OF DOCUMENTA-  
8 TION.—The employer, and the individual  
9 whose identity and employment authorized  
10 status are being confirmed, shall fulfill the  
11 requirements under subsection (c).

12 “(B) SEEKING CONFIRMATION.—

13 “(i) IN GENERAL.—An employer shall  
14 use the System to confirm the identity and  
15 employment authorized status of any indi-  
16 vidual during—

17 “(I) the period beginning on the  
18 date on which the individual accepts  
19 an offer of employment and ending 3  
20 business days after the date on which  
21 employment begins; or

22 “(II) such other reasonable pe-  
23 riod as the Secretary may prescribe.

24 “(ii) LIMITATION.—An employer may  
25 not make the starting date of an individ-

1           ual’s employment or training or any other  
2           term and condition of employment depend-  
3           ent on the receipt of a confirmation of  
4           identity and employment authorized status  
5           by the System.

6           “(iii) REVERIFICATION.—If an indi-  
7           vidual has a limited period of employment  
8           authorized status, the individual’s em-  
9           ployer shall reverify such status through  
10          the System not later than 3 business days  
11          after the last day of such period.

12          “(iv) OTHER EMPLOYMENT.—For em-  
13          ployers directed by the Secretary to par-  
14          ticipate in the System under paragraph  
15          (2)(C)(i) to protect critical infrastructure  
16          or otherwise specified circumstances in this  
17          section to verify their entire workforce, the  
18          System may be used for initial verification  
19          of an individual who was hired before the  
20          employer became subject to the System,  
21          and the employer shall initiate all required  
22          procedures on or before such date as the  
23          Secretary shall specify.

24          “(v) NOTIFICATION.—

1                   “(I) IN GENERAL.—The Sec-  
2                   retary shall provide, and the employer  
3                   shall utilize, as part of the System, a  
4                   method of notifying employers of a  
5                   confirmation or nonconfirmation of an  
6                   individual’s identity and employment  
7                   authorized status, or a notice that  
8                   further action is required to verify  
9                   such identity or employment eligibility  
10                  (referred to in this subsection as a  
11                  ‘further action notice’).

12                  “(II) PROCEDURES.—The Sec-  
13                  retary shall—

14                       “(aa) directly notify the in-  
15                       dividual and the employer, by  
16                       means of electronic correspond-  
17                       ence, mail, text message, tele-  
18                       phone, or other direct commu-  
19                       nication, of a nonconfirmation or  
20                       further action notice;

21                       “(bb) provide information  
22                       about filing an administrative ap-  
23                       peal under paragraph (6) and a  
24                       filing for review before an admin-

542

1                   istrative law judge under para-  
2                   graph (7); and

3                   “(cc) establish procedures to  
4                   directly notify the individual and  
5                   the employer of a confirmation.

6                   “(III) IMPLEMENTATION.—The  
7                   Secretary may provide for a phased-in  
8                   implementation of the notification re-  
9                   quirements under this clause, as ap-  
10                  propriate. The notification system  
11                  shall cover all inquiries not later than  
12                  1 year from the date of the enactment  
13                  of the Border Security, Economic Op-  
14                  portunity, and Immigration Mod-  
15                  ernization Act.

16                  “(C) CONFIRMATION OR NONCONFIRMA-  
17                  TION.—

18                  “(i) INITIAL RESPONSE.—

19                  “(I) IN GENERAL.—Except as  
20                  provided in subclause (II), the System  
21                  shall provide—

22                  “(aa) a confirmation of an  
23                  individual’s identity and employ-  
24                  ment authorized status or a fur-

543

1 ther action notice at the time of  
2 the inquiry; and

3 “(bb) an appropriate code  
4 indicating such confirmation or  
5 such further action notice.

6 “(II) ALTERNATIVE DEAD-  
7 LINE.—If the System is unable to  
8 provide immediate confirmation or  
9 further action notice for technological  
10 reasons or due to unforeseen cir-  
11 cumstances, the System shall provide  
12 a confirmation or further action notice  
13 not later than 3 business days after  
14 the initial inquiry.

15 “(ii) CONFIRMATION UPON INITIAL  
16 INQUIRY.—If the employer receives an ap-  
17 propriate confirmation of an individual’s  
18 identity and employment authorized status  
19 under the System, the employer shall  
20 record the confirmation in such manner as  
21 the Secretary may specify.

22 “(iii) FURTHER ACTION NOTICE AND  
23 LATER CONFIRMATION OR NONCONFIRMA-  
24 TION.—

1                   “(I) NOTIFICATION AND AC-  
2                   KNOWLEDGMENT THAT FURTHER AC-  
3                   TION IS REQUIRED.—Not later than 3  
4                   business days after an employer re-  
5                   ceives a further action notice of an in-  
6                   dividual’s identity or employment eli-  
7                   gibility under the System, or during  
8                   such other reasonable time as the Sec-  
9                   retary may prescribe, the employer  
10                  shall notify the individual for whom  
11                  the confirmation is sought of the fur-  
12                  ther action notice and any procedures  
13                  specified by the Secretary for address-  
14                  ing such notice. The further action  
15                  notice shall be given to the individual  
16                  in writing and the employer shall ac-  
17                  knowledge in the System under pen-  
18                  alty of perjury that it provided the  
19                  employee with the further action no-  
20                  tice. The individual shall affirmatively  
21                  acknowledge in writing, or in such  
22                  other manner as the Secretary may  
23                  specify, the receipt of the further ac-  
24                  tion notice from the employer. If the  
25                  individual refuses to acknowledge the



1 receipt of the further action notice, or  
2 acknowledges in writing that the indi-  
3 vidual will not contest the further ac-  
4 tion notice under subclause (II), the  
5 employer shall notify the Secretary in  
6 such manner as the Secretary may  
7 specify.

8 “(II) CONTEST.—Not later than  
9 10 business days after receiving noti-  
10 fication of a further action notice  
11 under subclause (I), the individual  
12 shall contact the appropriate Federal  
13 agency and, if the Secretary so re-  
14 quires, appear in person for purposes  
15 of verifying the individual’s identity  
16 and employment eligibility. The Sec-  
17 retary, in consultation with the Com-  
18 missioner and other appropriate Fed-  
19 eral agencies, shall specify an avail-  
20 able secondary verification procedure  
21 to confirm the validity of information  
22 provided and to provide a confirma-  
23 tion or nonconfirmation. Any proce-  
24 dures for reexamination shall not limit

1 in any way an employee's right to ap-  
2 peal a nonconfirmation.

3 “(III) NO CONTEST.—If the indi-  
4 vidual refuses to acknowledge receipt  
5 of the further action notice, acknowl-  
6 edges that the individual will not con-  
7 test the further action notice as pro-  
8 vided in subclause (I), or does not  
9 contact the appropriate Federal agen-  
10 cy within the period specified in sub-  
11 clause (II), following expiration of the  
12 period specified in subclause (II), a  
13 nonconfirmation shall be issued. The  
14 employer shall record the noncon-  
15 firmation in such manner as the Sec-  
16 retary may specify and terminate the  
17 individual's employment. An individ-  
18 ual's failure to contest a further ac-  
19 tion notice shall not be considered an  
20 admission of guilt with respect to any  
21 violation of this section or any provi-  
22 sion of law.

23 “(IV) CONFIRMATION OR NON-  
24 CONFIRMATION.—Unless the period is  
25 extended in accordance with this sub-

1 clause, the System shall provide a  
2 confirmation or nonconfirmation not  
3 later than 10 business days after the  
4 date on which the individual contests  
5 the further action notice under sub-  
6 clause (II). If the Secretary deter-  
7 mines that good cause exists, after  
8 taking into account adverse impacts  
9 to the employer, and including time to  
10 permit the individual to obtain and  
11 provide needed evidence of identity or  
12 employment eligibility, the Secretary  
13 shall extend the period for providing  
14 confirmation or nonconfirmation for  
15 stated periods beyond 10 business  
16 days. When confirmation or noncon-  
17 firmation is provided, the confirma-  
18 tion system shall provide an appro-  
19 priate code indicating such confirma-  
20 tion or nonconfirmation.

21 “(V) REEXAMINATION.—Nothing  
22 in this section shall prevent the Sec-  
23 retary from establishing procedures to  
24 reexamine a case where a confirma-  
25 tion or nonconfirmation has been pro-

1           vided if subsequently received infor-  
2           mation indicates that the confirmation  
3           or nonconfirmation may not have been  
4           correct. Any procedures for reexam-  
5           ination shall not limit in any way an  
6           employee's right to appeal a noncon-  
7           firmation.

8                   “(VI)     EMPLOYEE     PROTEC-  
9           TIONS.—An employer may not termi-  
10          nate employment or take any other  
11          adverse action against an individual  
12          solely because of a failure of the indi-  
13          vidual to have identity and employ-  
14          ment eligibility confirmed under this  
15          subsection until—

16                   “(aa) a nonconfirmation has  
17                  been issued;

18                   “(bb) if the further action  
19                  notice was contested, the period  
20                  to timely file an administrative  
21                  appeal has expired without an  
22                  appeal or the contestation to the  
23                  further action notice is with-  
24                  drawn; or

1                   “(cc) if an appeal before an  
2                   administrative law judge under  
3                   paragraph (7) has been filed, the  
4                   nonconfirmation has been upheld  
5                   or the appeal has been withdrawn  
6                   or dismissed.

7                   “(iv) NOTICE OF NONCONFIRMA-  
8                   TION.—Not later than 3 business days  
9                   after an employer receives a nonconfirma-  
10                  tion, or during such other reasonable time  
11                  as the Secretary may provide, the employer  
12                  shall notify the individual who is the sub-  
13                  ject of the nonconfirmation, and provide  
14                  information about filing an administrative  
15                  appeal pursuant to paragraph (6) and a  
16                  request for a hearing before an administra-  
17                  tive law judge pursuant to paragraph (7).  
18                  The nonconfirmation notice shall be given  
19                  to the individual in writing and the em-  
20                  ployer shall acknowledge in the System  
21                  under penalty of perjury that it provided  
22                  the notice (or adequately attempted to pro-  
23                  vide notice, but was unable to do so despite  
24                  reasonable efforts). The individual shall af-  
25                  firmatively acknowledge in writing, or in

1           such other manner as the Secretary may  
2           prescribe, the receipt of the nonconfirma-  
3           tion notice from the employer. If the indi-  
4           vidual refuses or fails to acknowledge the  
5           receipt of the nonconfirmation notice, the  
6           employer shall notify the Secretary in such  
7           manner as the Secretary may prescribe.

8           “(D) CONSEQUENCES OF NONCONFIRMA-  
9           TION.—

10           “(i) TERMINATION OF CONTINUED  
11           EMPLOYMENT.—Except as provided in  
12           clause (iii), an employer that has received  
13           a nonconfirmation regarding an individual  
14           and has made reasonable efforts to notify  
15           the individual in accordance with subpara-  
16           graph (C)(iv) shall terminate the employ-  
17           ment of the individual upon the expiration  
18           of the time period specified in paragraph  
19           (7).

20           “(ii) CONTINUED EMPLOYMENT  
21           AFTER NONCONFIRMATION.—If the em-  
22           ployer continues to employ an individual  
23           after receiving nonconfirmation and ex-  
24           haustion of all appeals or expiration of all  
25           rights to appeal if not appealed, in viola-

tion of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

“(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual’s employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

“(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

552

1 “(I) the name of such individual;

2 “(II) his or her social security  
3 number or alien file number;

4 “(III) the name and contact in-  
5 formation for his or her current em-  
6 ployer; and

7 “(IV) any other critical informa-  
8 tion that the Assistant Secretary de-  
9 termines to be appropriate.

10 “(E) OBLIGATION TO RESPOND TO QUE-  
11 RIES AND ADDITIONAL INFORMATION.—

12 “(i) IN GENERAL.—Employers shall  
13 comply with requests for information from  
14 the Secretary and the Special Counsel for  
15 Immigration-Related Unfair Employment  
16 Practices of the Department of Justice, in-  
17 cluding queries concerning current and  
18 former employees, within the time frame  
19 during which records are required to be  
20 maintained under this section regarding  
21 such former employees, if such information  
22 relates to the functioning of the System,  
23 the accuracy of the responses provided by  
24 the System, or any suspected misuse, dis-  
25 crimination, fraud, or identity theft in the



1 use of the System. Failure to comply with  
2 a request under this clause constitutes a  
3 violation of subsection (a)(1)(B).

4 “(ii) ACTION BY INDIVIDUALS.—

5 “(I) IN GENERAL.—Individuals  
6 being verified through the System  
7 may be required to take further action  
8 to address questions identified by the  
9 Secretary or the Commissioner re-  
10 garding the documents relied upon for  
11 purposes of subsection (c).

12 “(II) NOTIFICATION.—Not later  
13 than 3 business days after the receipt  
14 of such questions regarding an indi-  
15 vidual, or during such other reason-  
16 able time as the Secretary may pre-  
17 scribe, the employer shall—

18 “(aa) notify the individual of  
19 any such requirement for further  
20 actions; and

21 “(bb) record the date and  
22 manner of such notification.

23 “(III) ACKNOWLEDGMENT.—The  
24 individual shall acknowledge the noti-  
25 fication received from the employer

1 under subclause (II) in writing, or in  
2 such other manner as the Secretary  
3 may prescribe.

4 “(iii) RULEMAKING.—

5 “(I) IN GENERAL.—The Sec-  
6 retary, in consultation with the Com-  
7 missioner and the Attorney General,  
8 is authorized to issue regulations im-  
9 plementing, clarifying, and  
10 supplementing the requirements under  
11 this subparagraph—

12 “(aa) to facilitate the func-  
13 tioning, accuracy, and fairness of  
14 the System;

15 “(bb) to prevent misuse, dis-  
16 crimination, fraud, or identity  
17 theft in the use of the System; or

18 “(cc) to protect and main-  
19 tain the confidentiality of infor-  
20 mation that could be used to lo-  
21 cate or otherwise place at risk of  
22 harm victims of domestic vio-  
23 lence, dating violence, sexual as-  
24 sault, stalking, and human traf-  
25 ficking, and of the applicant or

555

1 beneficiary of any petition de-  
2 scribed in section 384(a)(2) of  
3 the Illegal Immigration Reform  
4 and Immigrant Responsibility  
5 Act of 1996 (8 U.S.C.  
6 1367(a)(2)).

7 “(II) NOTICE.—The regulations  
8 issued under subclause (I) shall be—  
9 “(aa) published in the Fed-  
10 eral Register; and  
11 “(bb) provided directly to all  
12 employers registered in the Sys-  
13 tem.

14 “(F) DESIGNATED AGENTS.—The Sec-  
15 retary shall establish a process—

16 “(i) for certifying, on an annual basis  
17 or at such times as the Secretary may pre-  
18 scribe, designated agents and other System  
19 service providers seeking access to the Sys-  
20 tem to perform verification queries on be-  
21 half of employers, based upon training,  
22 usage, privacy, and security standards pre-  
23 scribed by the Secretary;

24 “(ii) for ensuring that designated  
25 agents and other System service providers

1 are subject to monitoring to the same ex-  
2 tent as direct access users; and

3 “(iii) for establishing standards for  
4 certification of electronic I–9 programs.

5 “(G) REQUIREMENT TO PROVIDE INFOR-  
6 MATION.—

7 “(i) IN GENERAL.—No later than 3  
8 months after the date of the enactment of  
9 the Border Security, Economic Oppor-  
10 tunity, and Immigration Modernization  
11 Act, the Secretary, in consultation with the  
12 Secretary of Labor, the Secretary of Agri-  
13 culture, the Commissioner, the Attorney  
14 General, the Equal Employment Oppor-  
15 tunity Commission, and the Administrator  
16 of the Small Business Administration,  
17 shall commence a campaign to disseminate  
18 information respecting the procedures,  
19 rights, and remedies prescribed under this  
20 section.

21 “(ii) CAMPAIGN REQUIREMENTS.—  
22 The campaign authorized under clause  
23 (i)—

24 “(I) shall be aimed at increasing  
25 the knowledge of employers, employ-

1 ees, and the general public concerning  
2 employer and employee rights, respon-  
3 sibilities, and remedies under this sec-  
4 tion; and

5 “(II) shall be coordinated with  
6 the public education campaign con-  
7 ducted by U.S. Citizenship and Immi-  
8 gration Services.

9 “(iii) ASSESSMENT.—The Secretary  
10 shall assess the success of the campaign in  
11 achieving the goals of the campaign.

12 “(iv) AUTHORITY TO CONTRACT.—In  
13 order to carry out and assess the campaign  
14 under this subparagraph, the Secretary  
15 may, to the extent deemed appropriate and  
16 subject to the availability of appropria-  
17 tions, contract with public and private or-  
18 ganizations for outreach and assessment  
19 activities under the campaign.

20 “(v) AUTHORIZATION OF APPROPRIA-  
21 TIONS.—There are authorized to be appro-  
22 priated to carry out this paragraph  
23 \$40,000,000 for each of the fiscal years  
24 2014 through 2016.

1                   “(H) AUTHORITY TO MODIFY INFORMA-  
2                   TION REQUIREMENTS.—Based on a regular re-  
3                   view of the System and the document  
4                   verification procedures to identify misuse or  
5                   fraudulent use and to assess the security of the  
6                   documents and processes used to establish iden-  
7                   tity or employment authorized status, the Sec-  
8                   retary, in consultation with the Commissioner,  
9                   after publication of notice in the Federal Reg-  
10                  ister and an opportunity for public comment,  
11                  may modify, if the Secretary determines that  
12                  the modification is necessary to ensure that the  
13                  System accurately and reliably determines the  
14                  identity and employment authorized status of  
15                  employees and maintain existing protections  
16                  against misuse, discrimination, fraud, and iden-  
17                  tity theft—

18                   “(i) the information that shall be pre-  
19                   sented to the employer by an individual;

20                   “(ii) the information that shall be pro-  
21                   vided to the System by the employer; and

22                   “(iii) the procedures that shall be fol-  
23                   lowed by employers with respect to the  
24                   process of verifying an individual through  
25                   the System.

1           “(I) SELF-VERIFICATION.—Subject to ap-  
2           propriate safeguards to prevent misuse of the  
3           system, the Secretary, in consultation with the  
4           Commissioner, shall establish a secure self-  
5           verification procedure to permit an individual  
6           who seeks to verify the individual’s own employ-  
7           ment eligibility to contact the appropriate agen-  
8           cy and, in a timely manner, correct or update  
9           the information contained in the System.

10          “(5) PROTECTION FROM LIABILITY FOR AC-  
11          TIONS TAKEN ON THE BASIS OF INFORMATION PRO-  
12          VIDED BY THE SYSTEM.—An employer shall not be  
13          liable to a job applicant, an employee, the Federal  
14          Government, or a State or local government, under  
15          Federal, State, or local criminal or civil law for any  
16          employment-related action taken with respect to a  
17          job applicant or employee in good faith reliance on  
18          information provided by the System.

19          “(6) ADMINISTRATIVE APPEAL.—

20               “(A) IN GENERAL.—An individual who is  
21               notified of a nonconfirmation may, not later  
22               than 10 business days after the date that such  
23               notice is received, file an administrative appeal  
24               of such nonconfirmation with the Commissioner  
25               if the notice is based on records maintained by

1 the Commissioner, or in any other case, with  
2 the Secretary. An individual who did not timely  
3 contest a further action notice timely received  
4 by that individual for which the individual ac-  
5 knowledged receipt may not be granted a review  
6 under this paragraph.

7 “(B) ADMINISTRATIVE STAY OF NONCON-  
8 FIRMATION.—The nonconfirmation shall be  
9 automatically stayed upon the timely filing of  
10 an administrative appeal, unless the noncon-  
11 firmation resulted after the individual acknowl-  
12 edged receipt of the further action notice but  
13 failed to contact the appropriate agency within  
14 the time provided. The stay shall remain in ef-  
15 fect until the resolution of the appeal, unless  
16 the Secretary or the Commissioner terminates  
17 the stay based on a determination that the ad-  
18 ministrative appeal is frivolous or filed for pur-  
19 poses of delay.

20 “(C) REVIEW FOR ERROR.—The Secretary  
21 and the Commissioner shall develop procedures  
22 for resolving administrative appeals regarding  
23 nonconfirmations based upon the information  
24 that the individual has provided, including any  
25 additional evidence or argument that was not



1           previously considered. Any such additional evi-  
2           dence or argument shall be filed within 10 busi-  
3           ness days of the date the appeal was originally  
4           filed. Appeals shall be resolved within 20 busi-  
5           ness days after the individual has submitted all  
6           evidence and arguments the individual wishes to  
7           submit, or has stated in writing that there is no  
8           additional evidence that the individual wishes to  
9           submit. The Secretary and the Commissioner  
10          may, on a case by case basis for good cause, ex-  
11          tend the filing and submission period in order  
12          to ensure accurate resolution of an appeal be-  
13          fore the Secretary or the Commissioner.

14               “(D) PREPONDERANCE OF EVIDENCE.—  
15          Administrative appeal under this paragraph  
16          shall be limited to whether a nonconfirmation  
17          notice is supported by a preponderance of the  
18          evidence.

19               “(E) DAMAGES, FEES, AND COSTS.—No  
20          money damages, fees or costs may be awarded  
21          in the administrative appeal process under this  
22          paragraph.

23               “(7) REVIEW BY ADMINISTRATIVE LAW  
24          JUDGE.—

1           “(A) IN GENERAL.—Not later than 30  
2           days after the date an individual receives a final  
3           determination on an administrative appeal  
4           under paragraph (6), the individual may obtain  
5           review of such determination by filing a com-  
6           plaint with a Department of Justice administra-  
7           tive law judge in accordance with this para-  
8           graph.

9           “(B) STAY OF NONCONFIRMATION.—The  
10          nonconfirmation related to such final deter-  
11          mination shall be automatically stayed upon the  
12          timely filing of a complaint under this para-  
13          graph, and the stay shall remain in effect until  
14          the resolution of the complaint, unless the ad-  
15          ministrative law judge determines that the ac-  
16          tion is frivolous or filed for purposes of delay.

17          “(C) SERVICE.—The respondent to com-  
18          plaint filed under this paragraph is either the  
19          Secretary or the Commissioner, but not both,  
20          depending upon who issued the administrative  
21          order under paragraph (6). In addition to serv-  
22          ing the respondent, the plaintiff shall serve the  
23          Attorney General.

24          “(D) AUTHORITY OF ADMINISTRATIVE  
25          LAW JUDGE.—

1                   “(i) RULES OF PRACTICE.—The Sec-  
2                   retary shall promulgate regulations regard-  
3                   ing the rules of practice in appeals brought  
4                   pursuant to this subsection.

5                   “(ii) AUTHORITY OF ADMINISTRATIVE  
6                   LAW JUDGE.—The administrative law  
7                   judge shall have power to—

8                   “(I) terminate a stay of a non-  
9                   confirmation under subparagraph (B)  
10                  if the administrative law judge deter-  
11                  mines that the action is frivolous or  
12                  filed for purposes of delay;

13                  “(II) adduce evidence at a hear-  
14                  ing;

15                  “(III) compel by subpoena the  
16                  attendance of witnesses and the pro-  
17                  duction of evidence at any designated  
18                  place or hearing;

19                  “(IV) resolve claims of identity  
20                  theft; and

21                  “(V) enter, upon the pleadings  
22                  and any evidence adduced at a hear-  
23                  ing, a decision affirming or reversing  
24                  the result of the agency, with or with-

1 out remanding the cause for a rehear-  
2 ing.

3 “(iii) SUBPOENA.—In case of contu-  
4 macy or refusal to obey a subpoena law-  
5 fully issued under this section and upon  
6 application of the administrative law judge,  
7 an appropriate district court of the United  
8 States may issue an order requiring com-  
9 pliance with such subpoena and any failure  
10 to obey such order may be punished by  
11 such court as a contempt of such court.

12 “(iv) TRAINING.—An administrative  
13 law judge hearing cases shall have special  
14 training respecting employment authorized  
15 status verification.

16 “(E) ORDER BY ADMINISTRATIVE LAW  
17 JUDGE.—

18 “(i) IN GENERAL.—The administra-  
19 tive law judge shall issue and cause to be  
20 served to the parties in the proceeding an  
21 order which may be appealed as provided  
22 in subparagraph (G).

23 “(ii) CONTENTS OF ORDER.—Such an  
24 order shall uphold or reverse the final de-  
25 termination on the request for reconsider-

1           ation and order lost wages and other ap-  
2           propriate remedies as provided in subpara-  
3           graph (F).

4           “(F) COMPENSATION FOR ERROR.—

5                 “(i) IN GENERAL.—In cases in which  
6           the administrative law judge reverses the  
7           final determination of the Secretary or the  
8           Commissioner made under paragraph (6),  
9           and the administrative law judge finds  
10          that—

11                 “(I) the nonconfirmation was due  
12           to gross negligence or intentional mis-  
13           conduct of the employer, the adminis-  
14           trative law judge may order the em-  
15           ployer to pay the individual lost  
16           wages, and reasonable costs and attor-  
17           neys’ fees incurred during administra-  
18           tive and judicial review; or

19                 “(II) such final determination  
20           was erroneous by reason of the neg-  
21           ligence of the Secretary or the Com-  
22           missioner, the administrative law  
23           judge may order the Secretary or the  
24           Commissioner to pay the individual  
25           lost wages, and reasonable costs and

1 attorneys' fees incurred during the ad-  
2 ministrative appeal and the adminis-  
3 trative law judge review.

4 “(ii) CALCULATION OF LOST  
5 WAGES.—Lost wages shall be calculated  
6 based on the wage rate and work schedule  
7 that prevailed prior to termination. The in-  
8 dividual shall be compensated for wages  
9 lost beginning on the first scheduled work  
10 day after employment was terminated and  
11 ending 120 days after completion of the  
12 administrative law judge's review described  
13 in this paragraph or the day after the indi-  
14 vidual is reinstated or obtains employment  
15 elsewhere, whichever occurs first. If the in-  
16 dividual obtains employment elsewhere at a  
17 lower wage rate, the individual shall be  
18 compensated for the difference in wages  
19 for the period ending 120 days after com-  
20 pletion of the administrative law judge re-  
21 view process. No lost wages shall be award-  
22 ed for any period of time during which the  
23 individual was not in employment author-  
24 ized status.

1 “(iii) PAYMENT OF COMPENSATION.—

2 Notwithstanding any other law, payment of  
3 compensation for lost wages, costs, and at-  
4 torneys’ fees under this paragraph, or com-  
5 promise settlements of the same, shall be  
6 made as provided by section 1304 of title  
7 31, United States Code. Appropriations  
8 made available to the Secretary or the  
9 Commissioner, accounts provided for under  
10 section 286, and funds from the Federal  
11 Old-Age and Survivors Insurance Trust  
12 Fund or the Federal Disability Insurance  
13 Trust Fund shall not be available to pay  
14 such compensation.

15 “(G) APPEAL.—No later than 45 days  
16 after the entry of such final order, any person  
17 adversely affected by such final order may seek  
18 review of such order in the United States Court  
19 of Appeals for the circuit in which the violation  
20 is alleged to have occurred or in which the em-  
21 ployer resides or transacts business.

22 “(8) MANAGEMENT OF THE SYSTEM.—

23 “(A) IN GENERAL.—The Secretary is au-  
24 thorized to establish, manage, and modify the  
25 System, which shall—

1 “(i) respond to inquiries made by par-  
2 ticipating employers at any time through  
3 the internet, or such other means as the  
4 Secretary may designate, concerning an in-  
5 dividual’s identity and whether the indi-  
6 vidual is in employment authorized status;

7 “(ii) maintain records of the inquiries  
8 that were made, of confirmations provided  
9 (or not provided), and of the codes pro-  
10 vided to employers as evidence of their  
11 compliance with their obligations under the  
12 System; and

13 “(iii) provide information to, and re-  
14 quire action by, employers and individuals  
15 using the System.

16 “(B) DESIGN AND OPERATION OF SYS-  
17 TEM.—The System shall be designed and oper-  
18 ated—

19 “(i) to maximize its reliability and  
20 ease of use by employers consistent with  
21 protecting the privacy and security of the  
22 underlying information, and ensuring full  
23 notice of such use to employees;

24 “(ii) to maximize its ease of use by  
25 employees, including direct notification of



1           its use, of results, and ability to challenge  
2           results;

3           “(iii) to respond accurately to all in-  
4           quiries made by employers on whether in-  
5           dividuals are authorized to be employed  
6           and to register any times when the system  
7           is unable to receive inquiries;

8           “(iv) to maintain appropriate adminis-  
9           trative, technical, and physical safeguards  
10          to prevent unauthorized disclosure of per-  
11          sonal information, misuse by employers  
12          and employees, and discrimination;

13          “(v) to require regularly scheduled re-  
14          resher training of all users of the System  
15          to ensure compliance with all procedures;

16          “(vi) to allow for auditing of the use  
17          of the System to detect misuse, discrimina-  
18          tion, fraud, and identity theft, to protect  
19          privacy and assess System accuracy, and  
20          to preserve the integrity and security of  
21          the information in all of the System, in-  
22          cluding—

23                 “(I) to develop and use tools and  
24                 processes to detect or prevent fraud  
25                 and identity theft, such as multiple

1 uses of the same identifying informa-  
2 tion or documents to fraudulently gain  
3 employment;

4 “(II) to develop and use tools  
5 and processes to detect and prevent  
6 misuse of the system by employers  
7 and employees;

8 “(III) to develop tools and proc-  
9 esses to detect anomalies in the use of  
10 the system that may indicate potential  
11 fraud or misuse of the system;

12 “(IV) to audit documents and in-  
13 formation submitted by employees to  
14 employers, including authority to con-  
15 duct interviews with employers and  
16 employees, and obtain information  
17 concerning employment from the em-  
18 ployer;

19 “(vii) to confirm identity and employ-  
20 ment authorization through verification  
21 and comparison of records as determined  
22 necessary by the Secretary;

23 “(viii) to confirm electronically the  
24 issuance of the employment authorization  
25 or identity document and—

1                   “(I) if such photograph is avail-  
2                   able, to display the digital photograph  
3                   that the issuer placed on the docu-  
4                   ment so that the employer can com-  
5                   pare the photograph displayed to the  
6                   photograph on the document pre-  
7                   sented by the employee; or

8                   “(II) if a photograph is not avail-  
9                   able from the issuer, to confirm the  
10                  authenticity of the document using  
11                  such alternative procedures as the  
12                  Secretary may specify; and

13                  “(ix) to provide appropriate notifica-  
14                  tion directly to employers registered with  
15                  the System of all changes made by the  
16                  Secretary or the Commissioner related to  
17                  allowed and prohibited documents, and use  
18                  of the System.

19                  “(C) SAFEGUARDS TO THE SYSTEM.—

20                  “(i) REQUIREMENT TO DEVELOP.—  
21                  The Secretary, in consultation with the  
22                  Commissioner and other appropriate Fed-  
23                  eral and State agencies, shall develop poli-  
24                  cies and procedures to ensure protection of  
25                  the privacy and security of personally iden-

1           tifiable information and identifiers con-  
2           tained in the records accessed or main-  
3           tained by the System. The Secretary, in  
4           consultation with the Commissioner and  
5           other appropriate Federal and State agen-  
6           cies, shall develop and deploy appropriate  
7           privacy and security training for the Fed-  
8           eral and State employees accessing the  
9           records under the System.

10           “(ii) PRIVACY AUDITS.—The Sec-  
11           retary, acting through the Chief Privacy  
12           Officer of the Department, shall conduct  
13           regular privacy audits of the policies and  
14           procedures established under clause (i), in-  
15           cluding any collection, use, dissemination,  
16           and maintenance of personally identifiable  
17           information and any associated informa-  
18           tion technology systems, as well as scope of  
19           requests for this information. The Chief  
20           Privacy Officer shall review the results of  
21           the audits and recommend to the Secretary  
22           any changes necessary to improve the pri-  
23           vacy protections of the program.

24           “(iii) ACCURACY AUDITS.—

1                   “(I) IN GENERAL.—Not later  
2                   than November 30 of each year, the  
3                   Inspector General of the Department  
4                   of Homeland Security shall submit a  
5                   report to the Secretary, with a copy to  
6                   the President of the Senate and the  
7                   Speaker of the House of Representa-  
8                   tives, that sets forth the error rate of  
9                   the System for the previous fiscal year  
10                  and the assessments required to be  
11                  submitted by the Secretary under sub-  
12                  paragraphs (A) and (B) of paragraph  
13                  (10). The report shall describe in de-  
14                  tail the methodology employed for  
15                  purposes of the report, and shall make  
16                  recommendations for how error rates  
17                  may be reduced.

18                  “(II) ERROR RATE DEFINED.—In  
19                  this clause, the term ‘error rate’  
20                  means the percentage determined by  
21                  dividing—

22                         “(aa) the number of employ-  
23                         ment authorized individuals who  
24                         received further action notices,  
25                         contested such notices, and were

574

1 subsequently found to be employ-  
2 ment authorized; by

3 “(bb) the number of System  
4 inquiries submitted for employ-  
5 ment authorized individuals.

6 “(III) REDUCTION OF PENALTIES  
7 FOR RECORDKEEPING OR  
8 VERIFICATION PRACTICES FOLLOWING  
9 PERSISTENT SYSTEM INACCURA-  
10 CIES.—Notwithstanding subsection  
11 (e)(4)(C)(i), in any calendar year fol-  
12 lowing a report by the Inspector Gen-  
13 eral under subclause (I) that the Sys-  
14 tem had an error rate higher than 0.3  
15 percent for the previous fiscal year,  
16 the civil penalty assessable by the Sec-  
17 retary or an administrative law judge  
18 under that subsection for each first-  
19 time violation by an employer who has  
20 not previously been penalized under  
21 this section may not exceed \$1,000.

22 “(iv) RECORDS SECURITY PRO-  
23 GRAM.—Any person, including a private  
24 third party vendor, who retains document  
25 verification or System data pursuant to

575

1           this section shall implement an effective  
2           records security program that—

“(I) ensures that only authorized personnel have access to document verification or System data; and

“(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure and permanent record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

“(v) RECORDS SECURITY PROGRAM.—

In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

22 “(I) provides for backup and re-  
23 covery of any records maintained in  
24 electronic format to protect against

1 information loss, such as power inter-  
2 ruptions; and

3 “(II) ensures that employees are  
4 trained to minimize the risk of unau-  
5 thorized or accidental alteration or  
6 erasure of such data in electronic for-  
7 mat.

8 “(vi) AUTHORIZED PERSONNEL DE-  
9 FINED.—In this subparagraph, the term  
10 ‘authorized personnel’ means anyone reg-  
11 istered as a System user, or anyone with  
12 partial or full responsibility for completion  
13 of employment authorization verification or  
14 retention of data in connection with em-  
15 ployment authorization verification on be-  
16 half of an employer.

17 “(D) AVAILABLE FACILITIES AND ALTER-  
18 NATIVE ACCOMMODATIONS.—The Secretary  
19 shall make appropriate arrangements and de-  
20 velop standards to allow employers or employ-  
21 ees, including remote hires, who are otherwise  
22 unable to access the System to use electronic  
23 and telephonic formats (including video confer-  
24 encing, scanning technology, and other available  
25 technologies), Federal Government facilities,



1 public facilities, or other available locations in  
2 order to utilize the System.

3 “(E) RESPONSIBILITIES OF THE SEC-  
4 RETARY.—

5 “(i) IN GENERAL.—As part of the  
6 System, the Secretary shall maintain a re-  
7 liable, secure method, which, operating  
8 through the System and within the time  
9 periods specified, compares the name, alien  
10 identification or authorization number, or  
11 other information as determined relevant  
12 by the Secretary, provided in an inquiry  
13 against such information maintained or  
14 accessed by the Secretary in order to con-  
15 firm (or not confirm) the validity of the in-  
16 formation provided, the correspondence of  
17 the name and number, whether the alien  
18 has employment authorized status (or, to  
19 the extent that the Secretary determines to  
20 be feasible and appropriate, whether the  
21 records available to the Secretary verify  
22 the identity or status of a national of the  
23 United States), and such other information  
24 as the Secretary may prescribe.

1                   “(ii) PHOTOGRAPH DISPLAY.—As part  
2                   of the System, the Secretary shall establish  
3                   a reliable, secure method, which, operating  
4                   through the System, displays the digital  
5                   photograph described in subparagraph  
6                   (B)(viii)(I).

7                   “(iii) TIMING OF NOTICES.—The Sec-  
8                   retary shall have authority to prescribe  
9                   when a confirmation, nonconfirmation, or  
10                  further action notice shall be issued.

11                  “(iv) USE OF INFORMATION.—The  
12                  Secretary shall perform regular audits  
13                  under the System, as described in subpara-  
14                  graph (B)(vi) and shall utilize the informa-  
15                  tion obtained from such audits, as well as  
16                  any information obtained from the Com-  
17                  missioner pursuant to part E of title XI of  
18                  the Social Security Act (42 U.S.C. 1301 et  
19                  seq.), for the purposes of this section and  
20                  to administer and enforce the immigration  
21                  laws.

22                  “(v) IDENTITY FRAUD PROTECTION.—  
23                  To prevent identity fraud, not later than  
24                  18 months after the date of the enactment  
25                  of the Border Security, Economic Oppor-

1 tunity, and Immigration Modernization  
2 Act, the Secretary shall—

3 “(I) in consultation with the  
4 Commissioner, establish a program to  
5 provide a reliable, secure method for  
6 an individual to temporarily suspend  
7 or limit the use of the individual’s so-  
8 cial security account number or other  
9 identifying information for verification  
10 by the System; and

11 “(II) for each individual being  
12 verified through the System—

13 “(aa) notify the individual  
14 that the individual has the option  
15 to limit the use of the individ-  
16 ual’s social security account num-  
17 ber or other identifying informa-  
18 tion for verification by the Sys-  
19 tem; and

20 “(bb) provide instructions to  
21 the individuals for exercising the  
22 option referred to in item (aa).

23 “(vi) ALLOWING PARENTS TO PRE-  
24 VENT THEFT OF THEIR CHILD’S IDEN-  
25 TITY.—The Secretary, in consultation with

1 the Commissioner, shall establish a pro-  
2 gram that provides a reliable, secure meth-  
3 od by which parents or legal guardians  
4 may suspend or limit the use of the social  
5 security account number or other identi-  
6 fying information of a minor under their  
7 care for the purposes of the System. The  
8 Secretary may implement the program on  
9 a limited pilot program basis before mak-  
10 ing it fully available to all individuals.

11 “(vii) PROTECTION FROM MULTIPLE  
12 USE.—The Secretary and the Commis-  
13 sioner shall establish a procedure for iden-  
14 tifying and handling a situation in which a  
15 social security account number has been  
16 identified to be subject to unusual multiple  
17 use in the System or is otherwise suspected  
18 or determined to have been compromised  
19 by identity fraud.

20 “(viii) MONITORING AND COMPLIANCE  
21 UNIT.—The Secretary shall establish or  
22 designate a monitoring and compliance  
23 unit to detect and reduce identity fraud  
24 and other misuse of the System.

1 “(ix) CIVIL RIGHTS AND CIVIL LIB-  
2 ERTIES ASSESSMENTS.—

3 “(I) REQUIREMENT TO CON-  
4 DUCT.—The Secretary shall conduct  
5 regular civil rights and civil liberties  
6 assessments of the System, including  
7 participation by employers, other pri-  
8 vate entities, and Federal, State, and  
9 local government entities.

10 “(II) REQUIREMENT TO RE-  
11 SPOND.—Employers, other private en-  
12 tities, and Federal, State, and local  
13 entities shall timely respond to any re-  
14 quest in connection with such an as-  
15 sessment.

16 “(III) ASSESSMENT AND REC-  
17 OMMENDATIONS.—The Officer for  
18 Civil Rights and Civil Liberties of the  
19 Department shall review the results of  
20 each such assessment and recommend  
21 to the Secretary any changes nec-  
22 essary to improve the civil rights and  
23 civil liberties protections of the Sys-  
24 tem.

25 “(F) GRANTS TO STATES.—

1                   “(i) IN GENERAL.—The Secretary  
2                   shall create and administer a grant pro-  
3                   gram to help provide funding for States  
4                   that grant—

5                   “(I) the Secretary access to driv-  
6                   er’s license information as needed to  
7                   confirm that a driver’s license pre-  
8                   sented under subsection (c)(1)(D)(i)  
9                   confirms the identity of the subject of  
10                  the System check, and that a driver’s  
11                  license matches the State’s records;  
12                  and

13                  “(II) such assistance as the Sec-  
14                  retary may request in order to resolve  
15                  further action notices or nonconfirma-  
16                  tions relating to such information.

17                  “(ii) CONSTRUCTION WITH THE DRIV-  
18                  ER’S PRIVACY PROTECTION ACT OF 1994.—  
19                  The provision of a photograph to the Sec-  
20                  retary as described in clause (i) may not be  
21                  construed as a violation of section 2721 of  
22                  title 18, United States Code, and is a per-  
23                  missible use under subsection (b)(1) of  
24                  that section.

1                   “(iii) AUTHORIZATION OF APPROPRIA-  
2                   TIONS.—There is authorized to be appro-  
3                   priated to the Secretary \$250,000,000 to  
4                   carry out this subparagraph.

5                   “(G) RESPONSIBILITIES OF THE SEC-  
6                   RETARY OF STATE.—As part of the System, the  
7                   Secretary of State shall provide to the Sec-  
8                   retary access to passport and visa information  
9                   as needed to confirm that a passport, passport  
10                  card, or visa presented under subsection  
11                  (c)(1)(C) confirms the identity of the subject of  
12                  the System check, and that a passport, passport  
13                  card, or visa photograph matches the Secretary  
14                  of State’s records, and shall provide such assist-  
15                  ance as the Secretary may request in order to  
16                  resolve further action notices or nonconfirma-  
17                  tions relating to such information.

18                  “(H) UPDATING INFORMATION.—The  
19                  Commissioner, the Secretary, and the Secretary  
20                  of State shall update their information in a  
21                  manner that promotes maximum accuracy and  
22                  shall provide a process for the prompt correc-  
23                  tion of erroneous information.

24                  “(9) LIMITATION ON USE OF THE SYSTEM.—  
25                  Notwithstanding any other provision of law, nothing

1 in this subsection may be construed to permit or  
2 allow any department, bureau, or other agency of  
3 the United States Government or any other entity to  
4 utilize any information, database, or other records  
5 assembled under this subsection for any purpose  
6 other than for employment verification or to ensure  
7 secure, appropriate and nondiscriminatory use of the  
8 System.

9 “(10) ANNUAL REPORT AND CERTIFICATION.—  
10 Not later than 18 months after the promulgation of  
11 regulations to implement this subsection, and annu-  
12 ally thereafter, the Secretary shall submit to Con-  
13 gress a report that includes the following:

14 “(A) An assessment, as submitted to the  
15 Secretary by the Inspector General of the De-  
16 partment of Homeland Security pursuant to  
17 paragraph (8)(C)(iii)(I), of the accuracy rates  
18 of further action notices and other System no-  
19 tices provided by employers to individuals who  
20 are authorized to be employed in the United  
21 States.

22 “(B) An assessment, as submitted to the  
23 Secretary by the Inspector General of the De-  
24 partment of Homeland Security pursuant to  
25 paragraph (8)(C)(iii)(I), of the accuracy rates



1 of further action notices and other System no-  
2 tices provided directly (by the System) in a  
3 timely fashion to individuals who are not au-  
4 thorized to be employed in the United States.

5 “(C) An assessment of any challenges  
6 faced by small employers in utilizing the Sys-  
7 tem.

8 “(D) An assessment of the rate of em-  
9 ployer noncompliance (in addition to failure to  
10 provide required notices in a timely fashion) in  
11 each of the following categories:

12 “(i) Taking adverse action based on a  
13 further action notice.

14 “(ii) Use of the System for non-  
15 employees or other individuals before they  
16 are offered employment.

17 “(iii) Use of the System to reverify  
18 employment authorized status of current  
19 employees except if authorized to do so.

20 “(iv) Use of the System selectively,  
21 except in cases in which such use is au-  
22 thorized.

23 “(v) Use of the System to deny em-  
24 ployment or post-employment benefits or  
25 otherwise interfere with labor rights.

1                   “(vi) Requiring employees or appli-  
2                   cants to use any self-verification feature or  
3                   to provide self-verification results.

4                   “(vii) Discouraging individuals who  
5                   receive a further action notice from chal-  
6                   lenging the further action notice or appeal-  
7                   ing a determination made by the System.

8                   “(E) An assessment of the rate of em-  
9                   ployee noncompliance in each of the following  
10                  categories:

11                  “(i) Obtaining employment when un-  
12                  authorized with an employer complying  
13                  with the System in good faith.

14                  “(ii) Failure to provide required docu-  
15                  ments in a timely manner.

16                  “(iii) Attempting to use fraudulent  
17                  documents or documents not related to the  
18                  individual.

19                  “(iv) Misuse of the administrative ap-  
20                  peal and judicial review process.

21                  “(F) An assessment of the amount of time  
22                  taken for—

23                  “(i) the System to provide the con-  
24                  firmation or further action notice;

1 “(ii) individuals to contest further ac-  
2 tion notices;

3 “(iii) the System to provide a con-  
4 firmation or nonconfirmation of a con-  
5 tested further action notice;

6 “(iv) individuals to file an administra-  
7 tive appeal of a nonconfirmation; and

8 “(v) resolving administrative appeals  
9 regarding nonconfirmations.

10 “(11) ANNUAL GAO STUDY AND REPORT.—

11 “(A) REQUIREMENT.—The Comptroller  
12 General shall, for each year, undertake a study  
13 to evaluate the accuracy, efficiency, integrity,  
14 and impact of the System.

15 “(B) REPORT.—Not later than 18 months  
16 after the promulgation of regulations to imple-  
17 ment this subsection, and yearly thereafter, the  
18 Comptroller General shall submit to Congress a  
19 report containing the findings of the study car-  
20 ried out under this paragraph. Each such re-  
21 port shall include, at a minimum, the following:

22 “(i) An assessment of System per-  
23 formance with respect to the rate at which  
24 individuals who are eligible for employment  
25 in the United States are correctly approved

1           within the required periods, including a  
2           separate assessment of such rate for natu-  
3           ralized United States citizens, nationals of  
4           the United States, and aliens.

5           “(ii) An assessment of the privacy and  
6           confidentiality of the System and of the  
7           overall security of the System with respect  
8           to cybertheft and theft or misuse of private  
9           data.

10          “(iii) An assessment of whether the  
11          System is being implemented in a manner  
12          that is not discriminatory or used for retal-  
13          iation against employees.

14          “(iv) An assessment of the most com-  
15          mon causes for the erroneous issuance of  
16          nonconfirmations by the System and rec-  
17          ommendations to correct such causes.

18          “(v) The recommendations of the  
19          Comptroller General regarding System im-  
20          provements.

21          “(vi) An assessment of the frequency  
22          and magnitude of changes made to the  
23          System and the impact on the ability for  
24          employers to comply in good faith.

1                   “(vii) An assessment of the direct and  
2                   indirect costs incurred by employers in  
3                   complying with the System, including costs  
4                   associated with retaining potential employ-  
5                   ees through the administrative appeals  
6                   process and receiving a nonconfirmation.

7                   “(viii) An assessment of any backlogs  
8                   or delays in the System providing the con-  
9                   firmation or further action notice and im-  
10                  pacts to hiring by employers.

11               “(e) COMPLIANCE.—

12               “(1) COMPLAINTS AND INVESTIGATIONS.—The  
13               Secretary shall establish procedures—

14               “(A) for individuals and entities to file  
15               complaints respecting potential violations of  
16               subsections (a) or (f)(1);

17               “(B) for the investigation of those com-  
18               plaints which the Secretary deems appropriate  
19               to investigate; and

20               “(C) for providing notification to the Spe-  
21               cial Counsel for Immigration-Related Unfair  
22               Employment Practices of the Department of  
23               Justice of potential violations of section 274B.

1           “(2) AUTHORITY IN INVESTIGATIONS.—In con-  
2           ducting investigations and proceedings under this  
3           subsection—

4                   “(A) immigration officers shall have rea-  
5                   sonable access to examine evidence of the em-  
6                   ployer being investigated;

7                   “(B) immigration officers designated by  
8                   the Secretary, and administrative law judges  
9                   and other persons authorized to conduct pro-  
10                  ceedings under this section, may compel by sub-  
11                  poena the attendance of relevant witnesses and  
12                  the production of relevant evidence at any des-  
13                  ignated place in an investigation or case under  
14                  this subsection. In case of refusal to fully com-  
15                  ply with a subpoena lawfully issued under this  
16                  paragraph, the Secretary may request that the  
17                  Attorney General apply in an appropriate dis-  
18                  trict court of the United States for an order re-  
19                  quiring compliance with the subpoena, and any  
20                  failure to obey such order may be punished by  
21                  the court as contempt. Failure to cooperate  
22                  with the subpoena shall be subject to further  
23                  penalties, including further fines and the void-  
24                  ing of any mitigation of penalties or termi-

1 nation of proceedings under paragraph (4)(E);  
2 and

3 “(C) the Secretary, in cooperation with the  
4 Commissioner and Attorney General, and in  
5 consultation with other relevant agencies, shall  
6 establish a Joint Employment Fraud Task  
7 Force consisting of, at a minimum—

8 “(i) the System’s compliance per-  
9 sonnel;

10 “(ii) immigration law enforcement of-  
11 ficers;

12 “(iii) personnel of the Office of Spe-  
13 cial Counsel for Immigration-Related Un-  
14 fair Employment Practices of the Depart-  
15 ment of Justice;

16 “(iv) personnel of the Office for Civil  
17 Rights and Civil Liberties of the Depart-  
18 ment; and

19 “(v) personnel of Office of Inspector  
20 General of the Social Security Administra-  
21 tion.

22 “(3) COMPLIANCE PROCEDURES.—

23 “(A) PRE-PENALTY NOTICE.—If the Sec-  
24 retary has reasonable cause to believe that  
25 there has been a civil violation of this section in

1           the previous 3 years, the Secretary shall issue  
2           to the employer concerned a written notice of  
3           the Department's intention to issue a claim for  
4           a monetary or other penalty. Such pre-penalty  
5           notice shall—

6                     “(i) describe the violation;

7                     “(ii) specify the laws and regulations  
8                     allegedly violated;

9                     “(iii) disclose the material facts which  
10                    establish the alleged violation;

11                    “(iv) describe the penalty sought to be  
12                    imposed; and

13                    “(v) inform such employer that such  
14                    employer shall have a reasonable oppor-  
15                    tunity to make representations as to why a  
16                    monetary or other penalty should not be  
17                    imposed.

18                    “(B) EMPLOYER'S RESPONSE.—Whenever  
19                    any employer receives written pre-penalty notice  
20                    of a fine or other penalty in accordance with  
21                    subparagraph (A), the employer may, within 60  
22                    days from receipt of such notice, file with the  
23                    Secretary its written response to the notice.  
24                    The response may include any relevant evidence  
25                    or proffer of evidence that the employer wishes



1 to present with respect to whether the employer  
2 violated this section and whether, if so, the pen-  
3 alty should be mitigated, and shall be filed and  
4 considered in accordance with procedures to be  
5 established by the Secretary.

6 “(C) RIGHT TO A HEARING.—Before  
7 issuance of an order imposing a penalty on any  
8 employer, person, or entity, the employer, per-  
9 son, or entity shall be entitled to a hearing be-  
10 fore an administrative law judge, if requested  
11 within 60 days of the notice of penalty. The  
12 hearing shall be held at the nearest location  
13 practicable to the place where the employer,  
14 person, or entity resides or of the place where  
15 the alleged violation occurred.

16 “(D) ISSUANCE OF ORDERS.—If no hear-  
17 ing is so requested, the Secretary’s imposition  
18 of the order shall constitute a final and  
19 unappealable order. If a hearing is requested  
20 and the administrative law judge determines,  
21 upon clear and convincing evidence received,  
22 that there was a violation, the administrative  
23 law judge shall issue the final determination  
24 with a written penalty claim. The penalty claim  
25 shall specify all charges in the information pro-

1           vided under clauses (i) through (iii) of subpara-  
2           graph (A) and any mitigation of the penalty  
3           that the administrative law judge deems appro-  
4           priate under paragraph (4)(E).

5           “(4) CIVIL PENALTIES.—

6                   “(A) HIRING OR CONTINUING TO EMPLOY  
7           UNAUTHORIZED ALIENS.—Any employer that  
8           violates any provision of subsection (a)(1)(A) or  
9           (a)(2) shall—

10                   “(i) pay a civil penalty of not less  
11           than \$3,500 and not more than \$7,500 for  
12           each unauthorized alien with respect to  
13           which each violation of either subsection  
14           (a)(1)(A) or (a)(2) occurred;

15                   “(ii) if the employer has previously  
16           been fined as a result of a previous en-  
17           forcement action or previous violation  
18           under this paragraph, pay a civil penalty of  
19           not less than \$5,000 and not more than  
20           \$15,000 for each unauthorized alien with  
21           respect to which a violation of either sub-  
22           section (a)(1)(A) or (a)(2) occurred; and

23                   “(iii) if the employer has previously  
24           been fined more than once under this para-  
25           graph, pay a civil penalty of not less than

1           \$10,000 and not more than \$25,000 for  
2           each unauthorized alien with respect to  
3           which a violation of either subsection  
4           (a)(1)(A) or (a)(2) occurred.

5           “(B) ENHANCED PENALTIES.—After the  
6           Secretary certifies to Congress that the System  
7           has been established, implemented, and made  
8           mandatory for use by all employers in the  
9           United States, the Secretary may establish an  
10          enhanced civil penalty for an employer who—

11                  “(i) fails to query the System to verify  
12                  the identify and work authorized status of  
13                  an individual; and

14                  “(ii) violates a Federal, State, or local  
15                  law related to—

16                          “(I) the payment of wages;

17                          “(II) hours worked by employees;

18                          or

19                          “(III) workplace health and safe-  
20                          ty.

21           “(C) RECORDKEEPING OR VERIFICATION  
22           PRACTICES.—Any employer that violates or fails  
23           to comply with any requirement under sub-  
24           section (a)(1)(B), other than a minor or inad-

1           vertent failure, as determined by the Secretary,  
2           shall pay a civil penalty of—

3                   “(i) not less than \$500 and not more  
4                   than \$2,000 for each violation;

5                   “(ii) if an employer has previously  
6                   been fined under this paragraph, not less  
7                   than \$1,000 and not more than \$4,000 for  
8                   each violation; and

9                   “(iii) if an employer has previously  
10                  been fined more than once under this para-  
11                  graph, not less than \$2,000 and not more  
12                  than \$8,000 for each violation.

13               “(D) OTHER PENALTIES.—The Secretary  
14               may impose additional penalties for violations,  
15               including cease and desist orders, specially de-  
16               signed compliance plans to prevent further vio-  
17               lations, suspended fines to take effect in the  
18               event of a further violation, and in appropriate  
19               cases, the remedy provided by paragraph (f)(2).

20               “(E) MITIGATION.—The Secretary or, if  
21               an employer requests a hearing, the administra-  
22               tive law judge, is authorized, upon such terms  
23               and conditions as the Secretary or administra-  
24               tive law judge deems reasonable and just and in  
25               accordance with such procedures as the Sec-

1           retary may establish or any procedures estab-  
2           lished governing the administrative law judge's  
3           assessment of penalties, to reduce or mitigate  
4           penalties imposed upon employers, based upon  
5           factors including, the employer's hiring volume,  
6           compliance history, good-faith implementation  
7           of a compliance program, the size and level of  
8           sophistication of the employer, and voluntary  
9           disclosure of violations of this subsection to the  
10          Secretary. The Secretary or administrative law  
11          judge shall not mitigate a penalty below the  
12          minimum penalty provided by this section, ex-  
13          cept that the Secretary may, in the case of an  
14          employer subject to penalty for recordkeeping  
15          or verification violations only who has not pre-  
16          viously been penalized under this section, in the  
17          Secretary's or administrative law judge's discre-  
18          tion, mitigate the penalty below the statutory  
19          minimum or remit it entirely. In any case where  
20          a civil money penalty has been imposed on an  
21          employer under section 274B for an action or  
22          omission that is also a violation of this section,  
23          the Secretary or administrative law judge shall  
24          mitigate any civil money penalty under this sec-

1           tion by the amount of the penalty imposed  
2           under section 274B.

3           “(F) EFFECTIVE DATE.—The civil money  
4           penalty amounts and the enhanced penalties  
5           provided by subparagraphs (A), (B), and (C) of  
6           this paragraph and by subsection (f)(2) shall  
7           apply to violations of this section committed on  
8           or after the date that is 1 year after the date  
9           of the enactment of the Border Security, Eco-  
10          nomic Opportunity, and Immigration Mod-  
11          ernization Act. For violations committed prior  
12          to such date of enactment, the civil money pen-  
13          alty amounts provided by regulations imple-  
14          menting this section as in effect the minute be-  
15          fore such date of enactment with respect to  
16          knowing hiring or continuing employment,  
17          verification, or indemnity bond violations, as  
18          appropriate, shall apply.

19          “(5) ORDER OF INTERNAL REVIEW AND CER-  
20          TIFICATION OF COMPLIANCE.—

21                 “(A) EMPLOYER COMPLIANCE.—If the  
22                 Secretary has reasonable cause to believe that  
23                 an employer has failed to comply with this sec-  
24                 tion, the Secretary is authorized, at any time,  
25                 to require that the employer certify that it is in

1 compliance with this section, or has instituted a  
2 program to come into compliance.

3 “(B) EMPLOYER CERTIFICATION.—

4 “(i) REQUIREMENT.—Except as pro-  
5 vided in subparagraph (C), not later than  
6 60 days after receiving a notice from the  
7 Secretary requiring a certification under  
8 subparagraph (A), an official with respon-  
9 sibility for, and authority to bind the com-  
10 pany on, all hiring and immigration com-  
11 pliance notices shall certify under penalty  
12 of perjury that the employer is in conform-  
13 ance with the requirements of paragraphs  
14 (1) through (4) of subsection (c), per-  
15 taining to document verification require-  
16 ments, and with subsection (d), pertaining  
17 to the System (once the System is imple-  
18 mented with respect to that employer ac-  
19 cording to the requirements under sub-  
20 section (d)(2)), and with any additional re-  
21 quirements that the Secretary may promul-  
22 gate by regulation pursuant to subsection  
23 (c) or (d) or that the employer has insti-  
24 tuted a program to come into compliance  
25 with these requirements.

1                   “(ii) APPLICATION.—Clause (i) shall  
2                   not apply until the date that the Secretary  
3                   certifies to Congress that the System has  
4                   been established, implemented, and made  
5                   mandatory for use by all employers in the  
6                   United States.

7                   “(C) EXTENSION OF DEADLINE.—At the  
8                   request of the employer, the Secretary may ex-  
9                   tend the 60-day deadline for good cause.

10                  “(D) STANDARDS OR METHODS.—The Sec-  
11                  retary is authorized to publish in the Federal  
12                  Register standards or methods for such certifi-  
13                  cation, require specific recordkeeping practices  
14                  with respect to such certifications, and audit  
15                  the records thereof at any time. This authority  
16                  shall not be construed to diminish or qualify  
17                  any other penalty provided by this section.

18                  “(6) REQUIREMENTS FOR REVIEW OF A FINAL  
19                  DETERMINATION.—With respect to judicial review of  
20                  a final determination or penalty order issued under  
21                  paragraph (3)(D), the following requirements apply:

22                  “(A) DEADLINE.—The petition for review  
23                  must be filed no later than 30 days after the  
24                  date of the final determination or penalty order  
25                  issued under paragraph (3)(D).



1           “(B) VENUE AND FORMS.—The petition  
2           for review shall be filed with the court of ap-  
3           peals for the judicial circuit where the employ-  
4           er’s principal place of business was located  
5           when the final determination or penalty order  
6           was made. The record and briefs do not have  
7           to be printed. The court shall review the pro-  
8           ceeding on a typewritten or electronically filed  
9           record and briefs.

10           “(C) SERVICE.—The respondent is the  
11           Secretary. In addition to serving the respond-  
12           ent, the petitioner shall serve the Attorney Gen-  
13           eral.

14           “(D) PETITIONER’S BRIEF.—The peti-  
15           tioner shall serve and file a brief in connection  
16           with a petition for judicial review not later than  
17           40 days after the date on which the administra-  
18           tive record is available, and may serve and file  
19           a reply brief not later than 14 days after serv-  
20           ice of the brief of the respondent, and the court  
21           may not extend these deadlines, except for good  
22           cause shown. If a petitioner fails to file a brief  
23           within the time provided in this paragraph, the  
24           court shall dismiss the appeal unless a manifest  
25           injustice would result.

1           “(E) SCOPE AND STANDARD FOR RE-  
2           VIEW.—The court of appeals shall conduct a de  
3           novo review of the administrative record on  
4           which the final determination was based and  
5           any additional evidence that the Court finds  
6           was previously unavailable at the time of the  
7           administrative hearing.

8           “(F) EXHAUSTION OF ADMINISTRATIVE  
9           REMEDIES.—A court may review a final deter-  
10          mination under paragraph (3)(C) only if—

11           “(i) the petitioner has exhausted all  
12           administrative remedies available to the pe-  
13           titioner as of right, including any adminis-  
14           trative remedies established by regulation,  
15           and

16           “(ii) another court has not decided  
17           the validity of the order, unless the review-  
18           ing court finds that the petition presents  
19           grounds that could not have been pre-  
20           sented in the prior judicial proceeding or  
21           that the remedy provided by the prior pro-  
22           ceeding was inadequate or ineffective to  
23           test the validity of the order.

24           “(G) ENFORCEMENT OF ORDERS.—If the  
25          final determination issued against the employer

1           under this subsection is not subjected to review  
2           as provided in this paragraph, the Attorney  
3           General, upon request by the Secretary, may  
4           bring a civil action to enforce compliance with  
5           the final determination in any appropriate dis-  
6           trict court of the United States. The court, on  
7           a proper showing, shall issue a temporary re-  
8           straining order or a preliminary or permanent  
9           injunction requiring that the employer comply  
10          with the final determination issued against that  
11          employer under this subsection. In any such  
12          civil action, the validity and appropriateness of  
13          the final determination shall not be subject to  
14          review.

15          “(7) CREATION OF LIEN.—If any employer lia-  
16          ble for a fee or penalty under this section neglects  
17          or refuses to pay such liability after demand and  
18          fails to file a petition for review (if applicable) as  
19          provided in paragraph (6), the amount of the fee or  
20          penalty shall be a lien in favor of the United States  
21          on all property and rights to property, whether real  
22          or personal, belonging to such employer. If a petition  
23          for review is filed as provided in paragraph (6), the  
24          lien shall arise upon the entry of a final judgment  
25          by the court. The lien continues for 20 years or until

1       the liability is satisfied, remitted, set aside, or termi-  
2       nated.

3           “(8) FILING NOTICE OF LIEN.—

4               “(A) PLACE FOR FILING.—The notice of a  
5       lien referred to in paragraph (7) shall be filed  
6       as described in 1 of the following:

7               “(i) UNDER STATE LAWS.—

8                   “(I) REAL PROPERTY.—In the  
9       case of real property, in 1 office with-  
10      in the State (or the county, or other  
11      governmental subdivision), as des-  
12      ignated by the laws of such State, in  
13      which the property subject to the lien  
14      is situated.

15                  “(II) PERSONAL PROPERTY.—In  
16      the case of personal property, whether  
17      tangible or intangible, in 1 office with-  
18      in the State (or the county, or other  
19      governmental subdivision), as des-  
20      ignated by the laws of such State, in  
21      which the property subject to the lien  
22      is situated, except that State law  
23      merely conforming to or reenacting  
24      Federal law establishing a national fil-  
25      ing system does not constitute a sec-

1                   ond office for filing as designated by  
2                   the laws of such State.

3                   “(ii) WITH CLERK OF DISTRICT  
4                   COURT.—In the office of the clerk of the  
5                   United States district court for the judicial  
6                   district in which the property subject to  
7                   the lien is situated, whenever the State has  
8                   not by law designated 1 office which meets  
9                   the requirements of clause (i).

10                  “(iii) WITH RECORDER OF DEEDS OF  
11                  THE DISTRICT OF COLUMBIA.—In the of-  
12                  fice of the Recorder of Deeds of the Dis-  
13                  trict of Columbia, if the property subject to  
14                  the lien is situated in the District of Co-  
15                  lumbia.

16                  “(B) SITUS OF PROPERTY SUBJECT TO  
17                  LIEN.—For purposes of subparagraph (A),  
18                  property shall be deemed to be situated as fol-  
19                  lows:

20                         “(i) REAL PROPERTY.—In the case of  
21                         real property, at its physical location.

22                         “(ii) PERSONAL PROPERTY.—In the  
23                         case of personal property, whether tangible  
24                         or intangible, at the residence of the tax-  
25                         payer at the time the notice of lien is filed.

1           “(C) DETERMINATION OF RESIDENCE.—

2           For purposes of subparagraph (B)(ii), the resi-  
3           dence of a corporation or partnership shall be  
4           deemed to be the place at which the principal  
5           executive office of the business is located, and  
6           the residence of a taxpayer whose residence is  
7           outside the United States shall be deemed to be  
8           in the District of Columbia.

9           “(D) EFFECT OF FILING NOTICE OF  
10          LIEN.—

11           “(i) IN GENERAL.—Upon filing of a  
12           notice of lien in the manner described in  
13           this paragraph, the lien shall be valid  
14           against any purchaser, holder of a security  
15           interest, mechanic’s lien, or judgment lien  
16           creditor, except with respect to properties  
17           or transactions specified in subsection (b),  
18           (c), or (d) of section 6323 of the Internal  
19           Revenue Code of 1986 for which a notice  
20           of tax lien properly filed on the same date  
21           would not be valid.

22           “(ii) NOTICE OF LIEN.—The notice of  
23           lien shall be considered a notice of lien for  
24           taxes payable to the United States for the  
25           purpose of any State or local law providing

1           for the filing of a notice of a tax lien. A  
2           notice of lien that is registered, recorded,  
3           docketed, or indexed in accordance with  
4           the rules and requirements relating to  
5           judgments of the courts of the State where  
6           the notice of lien is registered, recorded,  
7           docketed, or indexed shall be considered  
8           for all purposes as the filing prescribed by  
9           this section.

10           “(iii) OTHER PROVISIONS.—The pro-  
11           visions of section 3201(e) of title 28,  
12           United States Code, shall apply to liens  
13           filed as prescribed by this paragraph.

14           “(E) ENFORCEMENT OF A LIEN.—A lien  
15           obtained through this paragraph shall be con-  
16           sidered a debt as defined by section 3002 of  
17           title 28, United States Code and enforceable  
18           pursuant to chapter 176 of such title.

19           “(9) ATTORNEY GENERAL ADJUDICATION.—  
20           The Attorney General shall have jurisdiction to adju-  
21           dicate administrative proceedings under this sub-  
22           section. Such proceedings shall be conducted in ac-  
23           cordance with requirements of section 554 of title 5,  
24           United States Code.

1       “(f) CRIMINAL AND CIVIL PENALTIES AND INJUNC-  
2 TIONS.—

3               “(1) PROHIBITION OF INDEMNITY BONDS.—It  
4 is unlawful for an employer, in the hiring of any in-  
5 dividual, to require the individual to post a bond or  
6 security, to pay or agree to pay an amount, or other-  
7 wise to provide a financial guarantee or indemnity,  
8 against any potential liability arising under this sec-  
9 tion relating to such hiring of the individual.

10              “(2) CIVIL PENALTY.—Any employer who is de-  
11 termined, after notice and opportunity for mitigation  
12 of the monetary penalty under subsection (e), to  
13 have violated paragraph (1) shall be subject to a  
14 civil penalty of \$10,000 for each violation and to an  
15 administrative order requiring the return of any  
16 amounts received in violation of such paragraph to  
17 the employee or, if the employee cannot be located,  
18 to the general fund of the Treasury.

19       “(g) GOVERNMENT CONTRACTS.—

20              “(1) CONTRACTORS AND RECIPIENTS.—When-  
21 ever an employer who is a Federal contractor (mean-  
22 ing an employer who holds a Federal contract,  
23 grant, or cooperative agreement, or reasonably may  
24 be expected to submit an offer for or be awarded a  
25 government contract) is determined by the Secretary



1 to have violated this section on more than 3 occa-  
2 sions or is convicted of a crime under this section,  
3 the employer shall be considered for debarment from  
4 the receipt of Federal contracts, grants, or coopera-  
5 tive agreements in accordance with the procedures  
6 and standards and for the periods prescribed by the  
7 Federal Acquisition Regulation. However, any ad-  
8 ministrative determination of liability for civil pen-  
9 alty by the Secretary or the Attorney General shall  
10 not be reviewable in any debarment proceeding.

11 “(2) INADVERTENT VIOLATIONS.—Inadvertent  
12 violations of recordkeeping or verification require-  
13 ments, in the absence of any other violations of this  
14 section, shall not be a basis for determining that an  
15 employer is a repeat violator for purposes of this  
16 subsection.

17 “(3) OTHER REMEDIES AVAILABLE.—Nothing  
18 in this subsection shall be construed to modify or  
19 limit any remedy available to any agency or official  
20 of the Federal Government for violation of any con-  
21 tractual requirement to participate in the System, as  
22 provided in the final rule relating to employment eli-  
23 gibility verification published in the Federal Register  
24 on November 14, 2008 (73 Fed. Reg. 67,651), or  
25 any similar subsequent regulation.

1       “(h) PREEMPTION.—The provisions of this section  
2 preempt any State or local law, ordinance, policy, or rule,  
3 including any criminal or civil fine or penalty structure,  
4 relating to the hiring, continued employment, or status  
5 verification for employment eligibility purposes, of unau-  
6 thorized aliens. A State, locality, municipality, or political  
7 subdivision may exercise its authority over business licens-  
8 ing and similar laws as a penalty for failure to use the  
9 System.

10       “(i) DEPOSIT OF AMOUNTS RECEIVED.—Except as  
11 otherwise specified, civil penalties collected under this sec-  
12 tion shall be deposited by the Secretary into the Com-  
13 prehensive Immigration Reform Trust Fund established  
14 under section 6(a)(1) of the Border Security, Economic  
15 Opportunity, and Immigration Modernization Act.

16       “(j) CHALLENGES TO VALIDITY OF THE SYSTEM.—

17               “(1) IN GENERAL.—Any right, benefit, or claim  
18 not otherwise waived or limited pursuant to this sec-  
19 tion is available in an action instituted in the United  
20 States District Court for the District of Columbia,  
21 but shall be limited to determinations of—

22                       “(A) whether this section, or any regula-  
23 tion issued to implement this section, violates  
24 the Constitution of the United States; or

1           “(B) whether such a regulation issued by  
2           or under the authority of the Secretary to im-  
3           plement this section, is contrary to applicable  
4           provisions of this section or was issued in viola-  
5           tion of chapter 5 of title 5, United States Code.

6           “(2) DEADLINES FOR BRINGING ACTIONS.—

7           Any action instituted under this subsection must be  
8           filed no later than 180 days after the date the chal-  
9           lenged section or regulation described in subpara-  
10          graph (A) or (B) of paragraph (1) becomes effective.  
11          No court shall have jurisdiction to review any chal-  
12          lenge described in subparagraph (B) after the time  
13          period specified in this subsection expires.

14          “(k) CRIMINAL PENALTIES AND INJUNCTIONS FOR  
15          PATTERN OR PRACTICE VIOLATIONS.—

16          “(1) PATTERN AND PRACTICE.—Any employer  
17          who engages in a pattern or practice of knowing vio-  
18          lations of subsection (a)(1)(A) or (a)(2) shall be  
19          fined under title 18, United States Code, no more  
20          than \$10,000 for each unauthorized alien with re-  
21          spect to whom such violation occurs, imprisoned for  
22          not more than 2 years for the entire pattern or prac-  
23          tice, or both.

24          “(2) TERM OF IMPRISONMENT.—The maximum  
25          term of imprisonment of a person convicted of any

1 criminal offense under the United States Code shall  
2 be increased by 5 years if the offense is committed  
3 as part of a pattern or practice of violations of sub-  
4 section (a)(1)(A) or (a)(2).

5 “(3) ENJOINING OF PATTERN OR PRACTICE  
6 VIOLATIONS.—Whenever the Secretary or the Attor-  
7 ney General has reasonable cause to believe that an  
8 employer is engaged in a pattern or practice of em-  
9 ployment in violation of subsection (a)(1)(A) or  
10 (a)(2), the Attorney General may bring a civil action  
11 in the appropriate district court of the United States  
12 requesting such relief, including a permanent or  
13 temporary injunction, restraining order, or other  
14 order against the employer, as the Secretary or At-  
15 torney General deems necessary.

16 “(l) CRIMINAL PENALTIES FOR UNLAWFUL AND  
17 ABUSIVE EMPLOYMENT.—

18 “(1) IN GENERAL.—Any person who, during  
19 any 12-month period, knowingly employs or hires,  
20 employs, recruits, or refers for a fee for employment  
21 10 or more individuals within the United States who  
22 are under the control and supervision of such per-  
23 son—

24 “(A) knowing that the individuals are un-  
25 authorized aliens; and

1           “(B) under conditions that violate section  
2           5(a) of the Occupational Safety and Health Act  
3           of 1970 (29 U.S.C. 654(a) (relating to occupa-  
4           tional safety and health), section 6 or 7 of the  
5           Fair Labor Standards Act of 1938 (29 U.S.C.  
6           206 and 207) (relating to minimum wages and  
7           maximum hours of employment), section 3142  
8           of title 40, United States Code, (relating to re-  
9           quired wages on construction contracts), or sec-  
10          tions 6703 or 6704 of title 41, United States  
11          Code, (relating to required wages on service  
12          contracts),  
13          shall be fined under title 18, United States Code, or  
14          imprisoned for not more than 10 years, or both.

15           “(2) ATTEMPT AND CONSPIRACY.—Any person  
16          who attempts or conspires to commit any offense  
17          under this section shall be punished in the same  
18          manner as a person who completes the offense.”.

19          (b) REPORT ON USE OF THE SYSTEM IN THE AGRI-  
20          CULTURAL INDUSTRY.—Not later than 18 months after  
21          the date of the enactment of this Act, the Secretary, in  
22          consultation with the Secretary of Agriculture, shall sub-  
23          mit a report to Congress that assesses implementation of  
24          the Employment Verification System established under  
25          section 274A(d) of the Immigration and Nationality Act,

1 as amended by subsection (a), in the agricultural industry,  
2 including the use of such System technology in agriculture  
3 industry hiring processes, user, contractor, and third-  
4 party employer agent employment practices, timing and  
5 logistics regarding employment verification and  
6 reverification processes to meet agriculture industry prac-  
7 tices, and identification of potential challenges and modi-  
8 fications to meet the unique needs of the agriculture in-  
9 dustry. Such report shall review—

10 (1) the modality of access, training and out-  
11 reach, customer support, processes for further action  
12 notices and secondary verifications for short-term  
13 workers, monitoring, and compliance procedures for  
14 such System;

15 (2) the interaction of such System with the  
16 process to admit nonimmigrant workers pursuant to  
17 section 218 or 218A of the Immigration and Nation-  
18 ality Act (8 U.S.C. 1188 et seq.) and with enforce-  
19 ment of the immigration laws; and

20 (3) the collaborative use of processes of other  
21 Federal and State agencies that intersect with the  
22 agriculture industry.

23 (c) REPORT ON IMPACT OF THE SYSTEM ON EM-  
24 PLOYERS.—Not later than 18 months after the date of

1 the enactment of this Act, the Secretary shall submit to  
2 Congress a report that assesses—

3 (1) the implementation of the Employment  
4 Verification System established under section  
5 274A(d) of the Immigration and Nationality Act, as  
6 amended by subsection (a), by employers;

7 (2) any adverse impact on the revenues, busi-  
8 ness processes, or profitability of employers required  
9 to use such System; and

10 (3) the economic impact of such System on  
11 small businesses.

12 (d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY  
13 OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EM-  
14 PLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—

15 (1) STUDY.—The Comptroller General of the  
16 United States shall carry out a study of—

17 (A) the effects of the documentary require-  
18 ments of section 274A of the Immigration and  
19 Nationality Act, as amended by subsection (a),  
20 on employers, naturalized United States citi-  
21 zens, nationals of the United States, and indi-  
22 viduals with employment authorized status; and

23 (B) the challenges such employers, citizens,  
24 nationals, or individuals may face in obtaining  
25 the documentation required under that section.

1           (2) REPORT.—Not later than 4 years after the  
2           date of the enactment of this Act, the Comptroller  
3           General shall submit to Congress a report containing  
4           the findings of the study carried out under para-  
5           graph (1). Such report shall include, at a minimum,  
6           the following:

7                   (A) An assessment of available information  
8                   regarding the number of working age nationals  
9                   of the United States and individuals who have  
10                  employment authorized status who lack docu-  
11                  ments required for employment by such section  
12                  274A.

13                  (B) A description of the additional steps  
14                  required for individuals who have employment  
15                  authorized status and do not possess the docu-  
16                  ments required by such section 274A to obtain  
17                  such documents.

18                  (C) A general assessment of the average fi-  
19                  nancial costs for individuals who have employ-  
20                  ment authorized status who do not possess the  
21                  documents required by such section 274A to ob-  
22                  tain such documents.

23                  (D) A general assessment of the average  
24                  financial costs and challenges for employers  
25                  who have been required to participate in the



1           Employment Verification System established by  
2           subsection (d) of such section 274A.

3           (E) A description of the barriers to indi-  
4           viduals who have employment authorized status  
5           in obtaining the documents required by such  
6           section 274A, including barriers imposed by the  
7           executive branch of the Government.

8           (F) Any particular challenges facing indi-  
9           viduals who have employment authorized status  
10          who are members of a federally recognized In-  
11          dian tribe in complying with the provisions of  
12          such section 274A.

13       (e) REPEAL OF PILOT PROGRAMS AND E-VERIFY  
14   AND TRANSITION PROCEDURES.—

15           (1) REPEAL.—Sections 401, 402, 403, 404,  
16       and 405 of the Illegal Immigration Reform and Im-  
17       migrant Responsibility Act of 1996 (division C of  
18       Public Law 104–208; 8 U.S.C. 1324a note) are re-  
19       pealed.

20           (2) TRANSITION PROCEDURES.—

21           (A) CONTINUATION OF E-VERIFY PRO-  
22       GRAM.—Notwithstanding the repeals made by  
23       paragraph (1), the Secretary shall continue to  
24       operate the E-Verify Program as described in  
25       section 403 of the Illegal Immigration Reform

1 and Immigrant Responsibility Act of 1996 (di-  
2 vision C of Public Law 104–208; 8 U.S.C.  
3 1324a note), as in effect the minute before the  
4 date of the enactment of this Act, until the  
5 transition to the System described in section  
6 274A(d) of the Immigration and Nationality  
7 Act, as amended by subsection (a), is deter-  
8 mined by the Secretary to be complete.

9 (B) TRANSITION TO THE SYSTEM.—Any  
10 employer who was participating in the E-Verify  
11 Program described in section 403 of the Illegal  
12 Immigration Reform and Immigrant Responsi-  
13 bility Act of 1996 (division C of Public Law  
14 104–208; 8 U.S.C. 1324a note), as in effect the  
15 minute before the date of the enactment of this  
16 Act, shall participate in the System described in  
17 section 274A(d) of the Immigration and Na-  
18 tionality Act, as amended by subsection (a), to  
19 the same extent and in the same manner that  
20 the employer participated in such E-Verify Pro-  
21 gram.

22 (3) CONSTRUCTION.—The repeal made by para-  
23 graph (1) may not be construed to limit the author-  
24 ity of the Secretary to allow or continue to allow the  
25 participation in such System of employers who have

1 participated in such E-Verify Program, as in effect  
2 on the minute before the date of the enactment of  
3 this Act.

4 (f) CONFORMING AMENDMENT.—Section 274(a) (8  
5 U.S.C. 1324(a)) is amended—

6 (1) by striking paragraph (3); and

7 (2) by redesignating paragraph (4) as para-  
8 graph (3).

9 **SEC. 3102. INCREASING SECURITY AND INTEGRITY OF SO-**  
10 **CIAL SECURITY CARDS.**

11 (a) FRAUD-RESISTANT, TAMPER-RESISTANT, WEAR-  
12 RESISTANT, AND IDENTITY THEFT-RESISTANT SOCIAL  
13 SECURITY CARDS.—

14 (1) ISSUANCE.—

15 (A) PRELIMINARY WORK.—Not later than  
16 180 days after the date of the enactment of this  
17 Act, the Commissioner of Social Security shall  
18 begin work to administer and issue fraud-resist-  
19 ant, tamper-resistant, wear-resistant, and iden-  
20 tity theft-resistant social security cards.

21 (B) COMPLETION.—Not later than 5 years  
22 after the date of the enactment of this Act, the  
23 Commissioner of Social Security shall issue only  
24 social security cards determined to be fraud-re-

1           sistant, tamper-resistant, wear-resistant, and  
2           identity theft-resistant.

3           (2) AMENDMENT.—

4                   (A) IN GENERAL.—Section 205(c)(2)(G) of  
5           the Social Security Act (42 U.S.C.  
6           405(c)(2)(G)) is amended by striking the sec-  
7           ond sentence and inserting the following: “The  
8           social security card shall be fraud-resistant,  
9           tamper-resistant, wear-resistant, and identity  
10          theft-resistant.”.

11                   (B) EFFECTIVE DATE.—The amendment  
12          made by subparagraph (A) shall take effect on  
13          the date that is 5 years after the date of the  
14          enactment of this Act.

15           (3) AUTHORIZATION OF APPROPRIATION.—  
16          There are authorized to be appropriated, from the  
17          Comprehensive Immigration Reform Trust Fund es-  
18          tablished under section 6(a)(1), such sums as may  
19          be necessary to carry out this section and the  
20          amendments made by this section.

21           (4) EMERGENCY DESIGNATION FOR CONGRES-  
22          SIONAL ENFORCEMENT.—In the Senate, amounts  
23          made available under this subsection are designated  
24          as an emergency requirement pursuant to section  
25          403(a) of S. Con. Res. 13 (111th Congress), the

1 concurrent resolution on the budget for fiscal year  
2 2010.

3 (5) EMERGENCY DESIGNATION FOR STATUTORY  
4 PAYGO.—Amounts made available under this sub-  
5 section are designated as an emergency requirement  
6 under section 4(g) of the Statutory Pay-As-You-Go  
7 Act of 2010 (Public Law 111–139; 2 U.S.C.  
8 933(g)).

9 (b) MULTIPLE CARDS.—Section 205(c)(2)(G) of the  
10 Social Security Act (42 U.S.C. 405(c)(2)(G)), as amended  
11 by subsection (a)(2), is amended—

12 (1) by inserting “(i)” after “(G)”; and

13 (2) by adding at the end the following:

14 “(ii) The Commissioner of Social Security shall re-  
15 strict the issuance of multiple replacement social security  
16 cards to any individual to 3 per year and 10 for the life  
17 of the individual, except that the Commissioner may allow  
18 for reasonable exceptions from the limits under this clause  
19 on a case-by-case basis in compelling circumstances.”.

20 (c) CRIMINAL PENALTIES.—

21 (1) SOCIAL SECURITY FRAUD.—

22 (A) IN GENERAL.—Chapter 47 of title 18,  
23 United States Code, is amended by inserting at  
24 the end the following:

1   **“§ 1041. Social security fraud**

2       “Any person who—

3           “(1) knowingly possesses or uses a social secu-  
4       rity account number or social security card knowing  
5       that the number or card was obtained from the  
6       Commissioner of Social Security by means of fraud  
7       or false statement;

8           “(2) knowingly and falsely represents a number  
9       to be the social security account number assigned by  
10      the Commissioner of Social Security to him or her  
11      or to another person, when such number is known  
12      not to be the social security account number as-  
13      signed by the Commissioner of Social Security to  
14      him or her or to such other person;

15          “(3) knowingly, and without lawful authority,  
16      buys, sells, or possesses with intent to buy or sell a  
17      social security account number or a social security  
18      card that is or purports to be a number or card  
19      issued by the Commissioner of Social Security;

20          “(4) knowingly alters, counterfeits, forges, or  
21      falsely makes a social security account number or a  
22      social security card;

23          “(5) knowingly uses, distributes, or transfers a  
24      social security account number or a social security  
25      card knowing the number or card to be intentionally

1       altered, counterfeited, forged, falsely made, or sto-  
2       len; or

3           “(6) without lawful authority, knowingly pro-  
4       duces or acquires for any person a social security ac-  
5       count number, a social security card, or a number  
6       or card that purports to be a social security account  
7       number or social security card,

8       shall be fined under this title, imprisoned not more than  
9       5 years, or both.”.

10           (B) TABLE OF SECTIONS AMENDMENT.—

11           The table of sections for chapter 47 of title 18,  
12           United States Code, is amended by adding after  
13           the item relating to section 1040 the following:

“Sec. 1041. Social security fraud.”.

14           (2) INFORMATION DISCLOSURE.—

15           (A) IN GENERAL.—Notwithstanding any  
16       other provision of law and subject to subpara-  
17       graph (B), the Commissioner of Social Security  
18       shall disclose for the purpose of investigating a  
19       violation of section 1041 of title 18, United  
20       States Code, or section 274A, 274B, or 274C  
21       of the Immigration and Nationality Act (8  
22       U.S.C. 1324a, 1324b, and 1324c), after receiv-  
23       ing a written request from an officer in a super-  
24       visory position or higher official of any Federal

1 law enforcement agency, the following records  
2 of the Social Security Administration:

3 (i) Records concerning the identity,  
4 address, location, or financial institution  
5 accounts of the holder of a social security  
6 account number or social security card.

7 (ii) Records concerning the applica-  
8 tion for and issuance of a social security  
9 account number or social security card.

10 (iii) Records concerning the existence  
11 or nonexistence of a social security account  
12 number or social security card.

13 (B) LIMITATION.—The Commissioner of  
14 Social Security shall not disclose any tax return  
15 or tax return information pursuant to subpara-  
16 graph (A) except as authorized by section 6103  
17 of the Internal Revenue Code of 1986.

18 **SEC. 3103. INCREASING SECURITY AND INTEGRITY OF IM-**  
19 **MIGRATION DOCUMENTS.**

20 Not later than 1 year after the date of the enactment  
21 of this Act, the Secretary shall submit a report to Con-  
22 gress on the feasibility, advantages, and disadvantages of  
23 including, in addition to a photograph, other biometric in-  
24 formation on each employment authorization document  
25 issued by the Department.



1 **SEC. 3104. RESPONSIBILITIES OF THE SOCIAL SECURITY**  
2 **ADMINISTRATION.**

3 Title XI of the Social Security Act (42 U.S.C. 1301  
4 et seq.) is amended by adding at the end the following  
5 new part:

6 “PART E—EMPLOYMENT VERIFICATION  
7 “RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL  
8 SECURITY

9 “SEC. 1186. (a) CONFIRMATION OF EMPLOYMENT  
10 VERIFICATION DATA.—As part of the employment  
11 verification system established by the Secretary of Home-  
12 land Security under the provisions of section 274A of the  
13 Immigration and Nationality Act (8 U.S.C. 1324a) (in  
14 this section referred to as the ‘System’), the Commissioner  
15 of Social Security shall, subject to the provisions of section  
16 274A(d) of the Immigration and Nationality Act (8 U.S.C.  
17 1324a(d)), establish a reliable, secure method that, oper-  
18 ating through the System and within the time periods  
19 specified in section 274A(d) of such Act—

20 “(1) compares the name, date of birth, social  
21 security account number, and available citizenship  
22 information provided in an inquiry against such in-  
23 formation maintained by the Commissioner in order  
24 to confirm (or not confirm) the validity of the infor-  
25 mation provided regarding an individual whose iden-  
26 tity and employment eligibility must be confirmed;

1           “(2) determines the correspondence of the  
2           name, date of birth, and number;

3           “(3) determines whether the name and number  
4           belong to an individual who is deceased according to  
5           the records maintained by the Commissioner;

6           “(4) determines whether an individual is a na-  
7           tional of the United States, as defined in section  
8           101(a)(22) of the Immigration and Nationality Act  
9           (8 U.S.C. 1101(a)(22)); and

10          “(5) determines whether the individual has pre-  
11          sented a social security account number that is not  
12          valid for employment.

13          “(b) PROHIBITION.—The System shall not disclose or  
14          release social security information to employers through  
15          the confirmation system (other than such confirmation or  
16          nonconfirmation, information provided by the employer to  
17          the System, or the reason for the issuance of a further  
18          action notice).”.

19   **SEC. 3105. IMPROVED PROHIBITION ON DISCRIMINATION**  
20                   **BASED ON NATIONAL ORIGIN OR CITIZEN-**  
21                   **SHIP STATUS.**

22          (a) IN GENERAL.—Section 274B(a) (8 U.S.C.  
23          1324b(a)) is amended to read as follows:

24          “(a) PROHIBITION ON DISCRIMINATION BASED ON  
25          NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

1           “(1) PROHIBITION ON DISCRIMINATION GEN-  
2           ERALLY.—It is an unfair immigration-related em-  
3           ployment practice for a person, other entity, or em-  
4           ployment agency, to discriminate against any indi-  
5           vidual (other than an unauthorized alien defined in  
6           section 274A(b)) because of such individual’s na-  
7           tional origin or citizenship status, with respect to the  
8           following:

9                   “(A) The hiring of the individual for em-  
10                  ployment.

11                  “(B) The verification of the individual’s  
12                  eligibility to work in the United States.

13                  “(C) The discharging of the individual  
14                  from employment.

15           “(2) EXCEPTIONS.—Paragraph (1) shall not  
16           apply to the following:

17                   “(A) A person, other entity, or employer  
18                  that employs 3 or fewer employees, except for  
19                  an employment agency.

20                   “(B) A person’s or entity’s discrimination  
21                  because of an individual’s national origin if the  
22                  discrimination with respect to that employer,  
23                  person, or entity and that individual is covered  
24                  under section 703 of the Civil Rights Act of  
25                  1964 (42 U.S.C. 2000e–2), unless the discrimi-

1 nation is related to an individual's verification  
2 of employment authorization.

3 “(C) Discrimination because of citizenship  
4 status which—

5 “(i) is otherwise required in order to  
6 comply with a provision of Federal, State,  
7 or local law related to law enforcement;

8 “(ii) is required by Federal Govern-  
9 ment contract; or

10 “(iii) the Secretary or Attorney Gen-  
11 eral determines to be essential for an em-  
12 ployer to do business with an agency or de-  
13 partment of the Federal Government or a  
14 State, local, or tribal government.

15 “(3) ADDITIONAL EXCEPTION PROVIDING  
16 RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—  
17 Notwithstanding any other provision of this section,  
18 it is not an unfair immigration-related employment  
19 practice for an employer (as defined in section  
20 274A(b)) to prefer to hire, recruit, or refer for a fee  
21 an individual who is a citizen or national of the  
22 United States over another individual who is an  
23 alien if the 2 individuals are equally qualified.

24 “(4) UNFAIR IMMIGRATION-RELATED EMPLOY-  
25 MENT PRACTICES RELATING TO THE SYSTEM.—It is

1       also an unfair immigration-related employment prac-  
2       tice for a person, other entity, or employment agen-  
3       cy—

4               “(A) to discharge or constructively dis-  
5       charge an individual solely due to a further ac-  
6       tion notice issued by the Employment  
7       Verification System created by section 274A  
8       until the administrative appeal described in sec-  
9       tion 274A(d)(6) is completed;

10              “(B) to use the System with regard to any  
11       person for any purpose except as authorized by  
12       section 274A(d);

13              “(C) to use the System to reverify the em-  
14       ployment authorization of a current employee,  
15       including an employee continuing in employ-  
16       ment, other than reverification upon expiration  
17       of employment authorization, or as otherwise  
18       authorized under section 274A(d) or by regula-  
19       tion;

20              “(D) to use the System selectively for em-  
21       ployees, except where authorized by law;

22              “(E) to fail to provide to an individual any  
23       notice required in section 274A(d) within the  
24       relevant time period;

1           “(F) to use the System to deny workers’  
2           employment or post-employment benefits;

3           “(G) to misuse the System to discriminate  
4           based on national origin or citizenship status;

5           “(H) to require an employee or prospective  
6           employee to use any self-verification feature of  
7           the System or provide, as a condition of appli-  
8           cation or employment, any self-verification re-  
9           sults;

10          “(I) to use an immigration status  
11          verification system, service, or method other  
12          than those described in section 274A for pur-  
13          poses of verifying employment eligibility; or

14          “(J) to grant access to document  
15          verification or System data, to any individual or  
16          entity other than personnel authorized to have  
17          such access, or to fail to take reasonable safe-  
18          guards to protect against unauthorized loss,  
19          use, alteration, or destruction of System data.

20          “(5) PROHIBITION OF INTIMIDATION OR RETAL-  
21          IATION.—It is also an unfair immigration-related  
22          employment practice for a person, other entity, or  
23          employment agency to intimidate, threaten, coerce,  
24          or retaliate against any individual—

1           “(A) for the purpose of interfering with  
2           any right or privilege secured under this sec-  
3           tion; or

4           “(B) because the individual intends to file  
5           or has filed a charge or a complaint, testified,  
6           assisted, or participated in any manner in an  
7           investigation, proceeding, or hearing under this  
8           section.

9           “(6) TREATMENT OF CERTAIN DOCUMENTARY  
10          PRACTICES AS EMPLOYMENT PRACTICES.—A per-  
11          son’s, other entity’s, or employment agency’s re-  
12          quest, for purposes of verifying employment eligi-  
13          bility, for more or different documents than are re-  
14          quired under section 274A, or for specific docu-  
15          ments, or refusing to honor documents tendered that  
16          reasonably appear to be genuine shall be treated as  
17          an unfair immigration-related employment practice.

18          “(7) PROHIBITION OF WITHHOLDING EMPLOY-  
19          MENT RECORDS.—It is an unfair immigration-re-  
20          lated employment practice for an employer that is  
21          required under Federal, State, or local law to main-  
22          tain records documenting employment, including  
23          dates or hours of work and wages received, to fail  
24          to provide such records to any employee upon re-  
25          quest.

1           “(8) PROFESSIONAL, COMMERCIAL, AND BUSI-  
2           NESS LICENSES.—An individual who is authorized to  
3           be employed in the United States may not be denied  
4           a professional, commercial, or business license on  
5           the basis of his or her immigration status.

6           “(9) EMPLOYMENT AGENCY DEFINED.—In this  
7           section, the term ‘employment agency’ means any  
8           employer, person, or entity regularly undertaking  
9           with or without compensation to procure employees  
10          for an employer or to procure for employees oppor-  
11          tunities to work for an employer and includes an  
12          agent of such employer, person, or entity.”.

13          (b) REFERRAL BY EEOC.—Section 274B(b) (8  
14          U.S.C. 1324b(b)) is amended by adding at the end the  
15          following:

16               “(3) REFERRAL BY EEOC.—The Equal Employ-  
17          ment Opportunity Commission shall refer all matters  
18          alleging immigration-related unfair employment  
19          practices filed with the Commission, including those  
20          alleging violations of paragraphs (1), (4), (5), and  
21          (6) of subsection (a) to the Special Counsel for Im-  
22          migration-Related Unfair Employment Practices of  
23          the Department of Justice.”.

24          (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
25          274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by striking



1 the period at the end and inserting “and an additional  
2 \$40,000,000 for each of fiscal years 2014 through 2016.”.

3 (d) FINES.—

4 (1) IN GENERAL.—Section 274B(g)(2)(B) (8  
5 U.S.C. 1324b(g)(2)(B)) is amended by striking  
6 clause (iv) and inserting the following:

7 “(iv) to pay any applicable civil pen-  
8 alties prescribed below, the amounts of  
9 which may be adjusted periodically to ac-  
10 count for inflation as provided by law—

11 “(I) except as provided in sub-  
12 clauses (II) through (IV), to pay a  
13 civil penalty of not less than \$2,000  
14 and not more than \$5,000 for each in-  
15 dividual subjected to an unfair immi-  
16 gration-related employment practice;

17 “(II) except as provided in sub-  
18 clauses (III) and (IV), in the case of  
19 an employer, person, or entity pre-  
20 viously subject to a single order under  
21 this paragraph, to pay a civil penalty  
22 of not less than \$4,000 and not more  
23 than \$10,000 for each individual sub-  
24 jected to an unfair immigration-re-  
25 lated employment practice;

1 “(III) except as provided in sub-  
2 clause (IV), in the case of an em-  
3 ployer, person, or entity previously  
4 subject to more than 1 order under  
5 this paragraph, to pay a civil penalty  
6 of not less than \$8,000 and not more  
7 than \$25,000 for each individual sub-  
8 jected to an unfair immigration-re-  
9 lated employment practice; and

10 “(IV) in the case of an unfair im-  
11 migration-related employment practice  
12 described in paragraphs (4) through  
13 (7) of subsection (a), to pay a civil  
14 penalty of not less than \$500 and not  
15 more than \$2,000 for each individual  
16 subjected to an unfair immigration-re-  
17 lated employment practice.”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by paragraph (1) shall take effect on the date that  
20 is 1 year after the date of the enactment of this Act  
21 and apply to violations occurring on or after such  
22 date of enactment.

23 **SEC. 3106. RULEMAKING.**

24 (a) INTERIM FINAL REGULATIONS.—

1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of the enactment of this Act—

3                   (A) the Secretary, shall issue regulations  
4           implementing sections 3101 and 3104 and the  
5           amendments made by such sections (except for  
6           section 274A(d)(7) of the Immigration and Na-  
7           tionality Act); and

8                   (B) the Attorney General shall issue regu-  
9           lations implementing section 274A(d)(7) of the  
10          Immigration and Nationality Act, as added by  
11          section 3101, section 3105, and the amend-  
12          ments made by such sections.

13          (2) EFFECTIVE DATE.—Regulations issued pur-  
14          suant to paragraph (1) shall be effective immediately  
15          on an interim basis, but are subject to change and  
16          revision after public notice and opportunity for a pe-  
17          riod for public comment.

18          (b) FINAL REGULATIONS.—Within a reasonable time  
19          after publication of the interim regulations under sub-  
20          section (a), the Secretary, in consultation with the Com-  
21          missioner of Social Security and the Attorney General,  
22          shall publish final regulations implementing this subtitle.

1 **SEC. 3107. OFFICE OF THE SMALL BUSINESS AND EM-**  
2 **PLOYEE ADVOCATE.**

3 (a) ESTABLISHMENT OF SMALL BUSINESS AND EM-  
4 PLOYEE ADVOCATE.—The Secretary shall establish and  
5 maintain within U.S. Citizenship and Immigration Serv-  
6 ices the Office of the Small Business and Employee Advo-  
7 cate (in this section referred to as the “Office”). The pur-  
8 pose of the Office shall be to assist small businesses and  
9 individuals in complying with the requirements of section  
10 274A of the Immigration and Nationality Act (8 U.S.C.  
11 1324a), as amended by this Act, including the resolution  
12 of conflicts arising in the course of attempted compliance  
13 with such requirements.

14 (b) FUNCTIONS.—The functions of the Office shall  
15 include, but not be limited to, the following:

16 (1) Informing small businesses and individuals  
17 about the verification practices required by section  
18 274A of the Immigration and Nationality Act, in-  
19 cluding, but not limited to, the document verification  
20 requirements and the employment verification sys-  
21 tem requirements under subsections (c) and (d) of  
22 that section.

23 (2) Assisting small businesses and individuals  
24 in addressing allegedly erroneous further action no-  
25 tices and nonconfirmations issued under subsection

1 (d) of section 274A of the Immigration and Nation-  
2 ality Act.

3 (3) Informing small businesses and individuals  
4 of the financial liabilities and criminal penalties that  
5 apply to violations and failures to comply with the  
6 requirements of section 274A of the Immigration  
7 and Nationality Act, including, but not limited to, by  
8 issuing best practices for compliance with that sec-  
9 tion.

10 (4) To the extent practicable, proposing  
11 changes to the Secretary in the administrative prac-  
12 tices of the employment verification system required  
13 under subsection (d) of section 274A of the Immi-  
14 gration and Nationality Act to mitigate the problems  
15 identified under paragraph (2).

16 (5) Making recommendations through the Sec-  
17 retary to Congress for legislative action to mitigate  
18 such problems.

19 (c) AUTHORITY TO ISSUE ASSISTANCE ORDER.—

20 (1) IN GENERAL.—Upon application filed by a  
21 small business or individual with the Office (in such  
22 form, manner, and at such time as the Secretary  
23 shall by regulations prescribe), the Office may issue  
24 an assistance order if—

1 (A) the Office determines the small busi-  
2 ness or individual is suffering or about to suffer  
3 a significant hardship as a result of the manner  
4 in which the employment verification laws  
5 under subsections (c) and (d) of section 274A  
6 of the Immigration and Nationality Act are  
7 being administered by the Secretary; or

8 (B) the small business or individual meets  
9 such other requirements as are set forth in reg-  
10 ulations prescribed by the Secretary.

11 (2) DETERMINATION OF HARDSHIP.—For pur-  
12 poses of paragraph (1), a significant hardship shall  
13 include—

14 (A) an immediate threat of adverse action;

15 (B) a delay of more than 60 days in resolv-  
16 ing employment verification system problems;

17 (C) the incurring by the small business or  
18 individual of significant costs if relief is not  
19 granted; or

20 (D) irreparable injury to, or a long-term  
21 adverse impact on, the small business or indi-  
22 vidual if relief is not granted.

23 (3) STANDARDS WHEN ADMINISTRATIVE GUID-  
24 ANCE NOT FOLLOWED.—In cases where a U.S. Citi-  
25 zenship and Immigration Services employee is not

1 following applicable published administrative guid-  
2 ance, the Office shall construe the factors taken into  
3 account in determining whether to issue an assist-  
4 ance order under this subsection in the manner most  
5 favorable to the small business or individual.

6 (4) TERMS OF ASSISTANCE ORDER.—The terms  
7 of an assistance order under this subsection may re-  
8 quire the Secretary within a specified time period—

9 (A) to determine whether any employee is  
10 or is not authorized to work in the United  
11 States; or

12 (B) to abate any penalty under section  
13 274A of the Immigration and Nationality Act  
14 that the Office determines is arbitrary, capri-  
15 cious, or disproportionate to the underlying of-  
16 fense.

17 (5) AUTHORITY TO MODIFY OR RESCIND.—Any  
18 assistance order issued by the Office under this sub-  
19 section may be modified or rescinded—

20 (A) only by the Office, the Director or  
21 Deputy Director of U.S. Citizenship and Immi-  
22 gration Services, or the Secretary or the Sec-  
23 retary's designee; and

24 (B) if rescinded by the Director or Deputy  
25 Director of U.S. Citizenship and Immigration

1 Services, only if a written explanation of the  
2 reasons of such official for the modification or  
3 rescission is provided to the Office.

4 (6) SUSPENSION OF RUNNING OF PERIOD OF  
5 LIMITATION.—The running of any period of limita-  
6 tion with respect to an action described in paragraph  
7 (4)(A) shall be suspended for—

8 (A) the period beginning on the date of the  
9 small business or individual's application under  
10 paragraph (1) and ending on the date of the  
11 Office's decision with respect to such applica-  
12 tion; and

13 (B) any period specified by the Office in  
14 an assistance order issued under this subsection  
15 pursuant to such application.

16 (7) INDEPENDENT ACTION OF OFFICE.—Noth-  
17 ing in this subsection shall prevent the Office from  
18 taking any action in the absence of an application  
19 under paragraph (1).

20 (d) ACCESSIBILITY TO THE PUBLIC.—

21 (1) IN PERSON, ONLINE, AND TELEPHONE AS-  
22 SISTANCE.—The Office shall provide information  
23 and assistance specified in subsection (b) in person  
24 at locations designated by the Secretary, online



1 through an Internet website of the Department  
2 available to the public, and by telephone.

3 (2) AVAILABILITY TO ALL EMPLOYERS.—In  
4 making information and assistance available, the Of-  
5 fice shall prioritize the needs of small businesses and  
6 individuals. However, the information and assistance  
7 available through the Office shall be available to any  
8 employer.

9 (e) AVOIDING DUPLICATION THROUGH COORDINA-  
10 TION.—In the discharge of the functions of the Office, the  
11 Secretary shall consult with the Secretary of Labor, the  
12 Secretary of Agriculture, the Commissioner, the Attorney  
13 General, the Equal Employment Opportunity Commission,  
14 and the Administrator of the Small Business Administra-  
15 tion in order to avoid duplication of efforts across the Fed-  
16 eral Government.

17 (f) DEFINITIONS.—In this section:

18 (1) The term “employer” has the meaning  
19 given that term in section 274A(b) of the Immigra-  
20 tion and Nationality Act.

21 (2) The term “small business” means an em-  
22 ployer with 49 or fewer employees.

23 (g) FUNDING.—There shall be appropriated, from the  
24 Comprehensive Immigration Reform Trust Fund estab-

lished by section 6(a)(1) of this Act, such sums as may  
be necessary to carry out the functions of the Office.

## **Subtitle B—Protecting United States Workers**

### **SEC. 3201. PROTECTIONS FOR VICTIMS OF SERIOUS VIOLA- TIONS OF LABOR AND EMPLOYMENT LAW OR CRIME.**

(a) IN GENERAL.—Section 101(a)(15)(U) (8 U.S.C.  
1101(a)(15)(U)) is amended—

(1) in clause (i)—

(A) by amending subclause (I) to read as  
follows:

“(I) the alien—

“(aa) has suffered substantial  
physical or mental abuse or substan-  
tial harm as a result of having been a  
victim of criminal activity described in  
clause (iii) or of a covered violation  
described in clause (iv); or

“(bb) is a victim of criminal ac-  
tivity described in clause (iii) or of a  
covered violation described in clause  
(iv) and would suffer extreme hard-  
ship upon removal;”;

1 (B) in subclause (II), by inserting “, or a  
2 covered violation resulting in a claim described  
3 in clause (iv) that is not the subject of a frivo-  
4 lous lawsuit by the alien” before the semicolon  
5 at the end; and

6 (C) by amending subclauses (III) and (IV)  
7 to read as follows:

8 “(III) the alien (or in the case of an  
9 alien child who is younger than 16 years of  
10 age, the parent, legal guardian, or next  
11 friend of the alien) has been helpful, is  
12 being helpful, or is likely to be helpful to—

13 “(aa) a Federal, State, or local  
14 law enforcement official, a Federal,  
15 State, or local prosecutor, a Federal,  
16 State, or local judge, the Department  
17 of Homeland Security, the Equal Em-  
18 ployment Opportunity Commission,  
19 the Department of Labor, or other  
20 Federal, State, or local authorities in-  
21 vestigating or prosecuting criminal ac-  
22 tivity described in clause (iii); or

23 “(bb) any Federal, State, or local  
24 governmental agency or judge inves-  
25 tigating, prosecuting, or seeking civil

1 remedies for any cause of action,  
2 whether criminal, civil, or administra-  
3 tive, arising from a covered violation  
4 described in clause (iv) and presents a  
5 certification from such Federal, State,  
6 or local governmental agency or judge  
7 attesting that the alien has been help-  
8 ful, is being helpful, or is likely to be  
9 helpful to such agency in the inves-  
10 tigation, prosecution, or adjudication  
11 arising from a covered violation de-  
12 scribed in clause (iv); and

13 “(IV) the criminal activity described  
14 in clause (iii) or the covered violation de-  
15 scribed in clause (iv)—

16 “(aa) violated the laws of the  
17 United States; or

18 “(bb) occurred in the United  
19 States (including Indian country and  
20 military installations) or the terri-  
21 tories and possessions of the United  
22 States;”;

23 (2) in clause (ii)(II), by striking “and” at the  
24 end;

25 (3) by moving clause (iii) 2 ems to the left;

1 (4) in clause (iii), by inserting “child abuse;  
2 elder abuse;” after “stalking;”;

3 (5) by adding at the end the following:

4 “(iv) a covered violation referred to in this  
5 clause is—

6 “(I) a serious violation involving 1 or more  
7 of the following or any similar activity in viola-  
8 tion of any Federal, State, or local law: serious  
9 workplace abuse, exploitation, retaliation, or  
10 violation of whistleblower protections;

11 “(II) a violation giving rise to a civil cause  
12 of action under section 1595 of title 18, United  
13 States Code; or

14 “(III) a violation resulting in the depriva-  
15 tion of due process or constitutional rights.”.

16 (b) SAVINGS PROVISION.—Nothing in section  
17 101(a)(15)(U)(iv)(I) of the Immigration and Nationality  
18 Act, as added by subsection (a), may be construed as al-  
19 tering the definition of retaliation or discrimination under  
20 any other provision of law.

21 (c) TEMPORARY STAY OF REMOVAL.—Section 274A  
22 (8 U.S.C. 1324a), as amended by section 3101, is further  
23 amended—

24 (1) in subsection (e) by adding at the end the  
25 following:

1           “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

2           If the Secretary undertakes an enforcement action  
3           at a facility about which a bona fide workplace claim  
4           has been filed or is contemporaneously filed, or as  
5           a result of information provided to the Secretary in  
6           retaliation against employees for exercising their  
7           rights related to a bona fide workplace claim, the  
8           Secretary shall ensure that—

9                   “(A) any aliens arrested or detained who  
10                  are necessary for the investigation or prosecu-  
11                  tion of a bona fide workplace claim or criminal  
12                  activity (as described in subparagraph (T) or  
13                  (U) of section 101(a)(15)) are not removed  
14                  from the United States until after the Sec-  
15                  retary—

16                           “(i) notifies the appropriate law en-  
17                          forcement agency with jurisdiction over  
18                          such violations or criminal activity; and

19                           “(ii) provides such agency with the  
20                          opportunity to interview such aliens;

21                   “(B) no aliens entitled to a stay of removal  
22                   or abeyance of removal proceedings under this  
23                   section are removed; and

24                           “(C) the Secretary shall stay the removal  
25                          of an alien who—

1 “(i) has filed a claim regarding a cov-  
2 ered violation described in clause (iv) of  
3 section 101(a)(15)(U) and is the victim of  
4 the same violations under an existing in-  
5 vestigation;

6 “(ii) is a material witness in any  
7 pending or anticipated proceeding involving  
8 a bona fide workplace claim or civil rights  
9 claim; or

10 “(iii) has filed for relief under such  
11 section if the alien is working with law en-  
12 forcement as described in clause (i)(III) of  
13 such section.”; and

14 (2) by adding at the end the following:

15 “(m) VICTIMS OF CRIMINAL ACTIVITY OR LABOR  
16 AND EMPLOYMENT VIOLATIONS.—The Secretary of  
17 Homeland Security may permit an alien to remain tempo-  
18 rarily in the United States and authorize the alien to en-  
19 gage in employment in the United States if the Secretary  
20 determines that the alien—

21 “(1) has filed for relief under section  
22 101(a)(15)(U); or

23 “(2)(A) has filed, or is a material witness to, a  
24 bona fide claim or proceedings resulting from a cov-

1       ered violation (as defined in section  
2       101(a)(15)(U)(iv)); and

3           “(B) has been helpful, is being helpful, or is  
4       likely to be helpful, in the investigation, prosecution  
5       of, or pursuit of civil remedies related to the claim  
6       arising from a covered violation, to—

7           “(i) a Federal, State, or local law enforce-  
8       ment official;

9           “(ii) a Federal, State, or local prosecutor;

10          “(iii) a Federal, State, or local judge;

11          “(iv) the Department of Homeland Secu-  
12       rity;

13          “(v) the Equal Employment Opportunity  
14       Commission; or

15          “(vi) the Department of Labor.”.

16       (d) CONFORMING AMENDMENTS.—Section 214(p) (8  
17   U.S.C. 1184(p)) is amended—

18           (1) in paragraph (1), by striking “in section  
19       101(a)(15)(U)(iii).” both places it appears and in-  
20       serting “in clause (iii) of section 101(a)(15)(U) or  
21       investigating, prosecuting, or seeking civil remedies  
22       for claims resulting from a covered violation de-  
23       scribed in clause (iv) of such section.”; and

24           (2) in the first sentence of paragraph (6)—



1                   (A)     by     striking     “in     section  
2                   101(a)(15)(U)(iii)” and inserting “in clause  
3                   (iii) of section 101(a)(15)(U) or claims result-  
4                   ing from a covered violation described in clause  
5                   (iv) of such section”; and

6                   (B) by inserting “or claim arising from a  
7                   covered violation” after “prosecution of such  
8                   criminal activity”.

9           (e) MODIFICATION OF LIMITATION ON AUTHORITY  
10 TO ADJUST STATUS FOR VICTIMS OF CRIMES.—Section  
11 245(m)(1) (8 U.S.C. 1255(m)(1)) is amended, in the mat-  
12 ter before subparagraph (A), by inserting “or an investiga-  
13 tion or prosecution regarding a workplace or civil rights  
14 claim” after “prosecution”.

15           (f) EXPANSION OF LIMITATION ON SOURCES OF IN-  
16 FORMATION THAT MAY BE USED TO MAKE ADVERSE  
17 DETERMINATIONS.—

18                   (1) IN GENERAL.—Section 384(a)(1) of the Il-  
19 legal Immigration Reform and Immigrant Responsi-  
20 bility Act of 1996 (8 U.S.C. 1367(a)(1)) is amend-  
21 ed—

22                   (A) in each of subparagraphs (A) through  
23                   (D), by striking the comma at the end and in-  
24                   serting a semicolon;

1 (B) subparagraph (E), by striking “the  
2 criminal activity,” and inserting “abuse and the  
3 criminal activity or bona fide workplace claim  
4 (as defined in subsection (e));”;

5 (C) in subparagraph (F), by striking “, the  
6 trafficker or perpetrator,” and inserting “), the  
7 trafficker or perpetrator; or”; and

8 (D) by inserting after subparagraph (F)  
9 the following:

10 “(G) the alien’s employer; or”.

11 (2) WORKPLACE CLAIM DEFINED.—Section 384  
12 of such Act (8 U.S.C. 1367) is amended by adding  
13 at the end the following:

14 “(e) WORKPLACE CLAIMS.—

15 “(1) WORKPLACE CLAIMS DEFINED.—

16 “(A) IN GENERAL.—In subsection (a)(1),  
17 the term ‘workplace claim’ means any claim, pe-  
18 tition, charge, complaint, or grievance filed  
19 with, or submitted to, a Federal, State, or local  
20 agency or court, relating to the violation of ap-  
21 plicable Federal, State, or local labor or employ-  
22 ment laws.

23 “(B) CONSTRUCTION.—Subparagraph (A)  
24 may not be construed to alter what constitutes

1           retaliation or discrimination under any other  
2           provision of law.

3           “(2) PENALTY FOR FALSE CLAIMS.—Any per-  
4           son who knowingly presents a false or fraudulent  
5           claim to a law enforcement official in relation to a  
6           covered violation described in section  
7           101(a)(15)(U)(iv) of the Immigration and Nation-  
8           ality Act for the purpose of obtaining a benefit  
9           under this section shall be subject to a civil penalty  
10          of not more than \$1,000.

11          “(3) LIMITATION ON STAY OF ADVERSE DETER-  
12          MINATIONS.—In the case of an alien applying for  
13          status under section 101(a)(15)(U) of the Immigra-  
14          tion and Nationality Act and seeking relief under  
15          that section, the prohibition on adverse determina-  
16          tions under subsection (a) shall expire on the date  
17          that the alien’s application for status under such  
18          section is denied and all opportunities for appeal of  
19          the denial have been exhausted.”.

20          (g) REMOVAL PROCEEDINGS.—Section 239(e) (8  
21          U.S.C. 1229(e)) is amended—

22               (1) in paragraph (1)—

23                       (A) by striking “In cases where” and in-  
24                       serting “If”; and

1 (B) by striking “paragraph (2),” and in-  
2 serting “paragraph (2) or as a result of infor-  
3 mation provided to the Secretary of Homeland  
4 Security in retaliation against individuals for  
5 exercising or attempting to exercise their em-  
6 ployment rights or other legal rights,”; and  
7 (2) in paragraph (2), by adding at the end the  
8 following:

9 “(C) At a facility about which a bona fide  
10 workplace claim has been filed or is contem-  
11 poraneously filed.”.

12 **SEC. 3202. EMPLOYMENT VERIFICATION SYSTEM EDU-**  
13 **CATION FUNDING.**

14 (a) DISPOSITION OF CIVIL PENALTIES.—Penalties  
15 collected under subsections (e)(4) and (f)(3) of section  
16 274A of the Immigration and Nationality Act, amended  
17 by section 3101, shall be deposited, as offsetting receipts,  
18 into the Comprehensive Immigration Reform Trust Fund  
19 established under section 6(a)(1).

20 (b) EXPENDITURES.—Amounts deposited into the  
21 Trust Fund under subsection (a) shall be made available  
22 to the Secretary and the Attorney General to provide edu-  
23 cation to employers and employees regarding the require-  
24 ments, obligations, and rights under the Employment  
25 Verification System.

1 (c) DETERMINATION OF BUDGETARY EFFECTS.—

2 (1) EMERGENCY DESIGNATION FOR CONGRES-  
3 SIONAL ENFORCEMENT.—In the Senate, amounts  
4 made available under this section are designated as  
5 an emergency requirement pursuant to section  
6 403(a) of S. Con. Res. 13 (111th Congress), the  
7 concurrent resolution on the budget for fiscal year  
8 2010.

9 (2) EMERGENCY DESIGNATION FOR STATUTORY  
10 PAYGO.—Amounts made available under this section  
11 are designated as an emergency requirement under  
12 section 4(g) of the Statutory Pay-As-You-Go Act of  
13 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

14 **SEC. 3203. DIRECTIVE TO THE UNITED STATES SEN-**  
15 **TENCING COMMISSION.**

16 (a) IN GENERAL.—Pursuant to its authority under  
17 section 994 of title 28, United States Code, and in accord-  
18 ance with subsection (b), the United States Sentencing  
19 Commission shall promulgate sentencing guidelines or  
20 amend existing sentencing guidelines to modify, if appro-  
21 priate, the penalties imposed on persons convicted of of-  
22 fenses under—

23 (1) section 274A of the Immigration and Na-  
24 tionality Act (8 U.S.C. 1324a), as amended by sec-  
25 tion 3101;

1 (2) section 16 of the Fair Labor Standards Act  
2 of 1938 (29 U.S.C. 216); and

3 (3) any other Federal law covering similar con-  
4 duct.

5 (b) REQUIREMENTS.—In carrying out subsection (a),  
6 the Sentencing Commission shall provide sentencing en-  
7 hancements for any person convicted of an offense de-  
8 scribed in subsection (a) if such offense involves—

9 (1) the intentional confiscation of identification  
10 documents;

11 (2) corruption, bribery, extortion, or robbery;

12 (3) sexual abuse;

13 (4) serious bodily injury;

14 (5) an intent to defraud; or

15 (6) a pattern of conduct involving multiple vio-  
16 lations of law that—

17 (A) creates, through knowing and inten-  
18 tional conduct, a risk to the health or safety of  
19 any victim; or

20 (B) denies payments due to victims for  
21 work completed.

## 22 **Subtitle C—Other Provisions**

### 23 **SEC. 3301. FUNDING.**

24 (a) ESTABLISHMENT OF THE INTERIOR ENFORCE-  
25 MENT ACCOUNT.—There is hereby established in the

1 Treasury of the United States an account which shall be  
2 known as the Interior Enforcement Account.

3 (b) APPROPRIATIONS.—There are authorized to be  
4 appropriated to the Interior Enforcement Account  
5 \$1,000,000,000 to carry out this title and the amend-  
6 ments made by this title, including the following appro-  
7 priations:

8 (1) In each of the 5 years beginning on the date  
9 of the enactment of this Act, the appropriations nec-  
10 essary to increase to a level not less than 5,000, by  
11 the end of such 5-year period, the total number of  
12 personnel of the Department assigned exclusively or  
13 principally to an office or offices in U.S. Citizenship  
14 and Immigration Services and U.S. Immigration and  
15 Customs Enforcement (and consistent with the mis-  
16 sions of such agencies), dedicated to administering  
17 the System, and monitoring and enforcing compli-  
18 ance with sections 274A, 274B, and 274C of the  
19 Immigration and Nationality Act (8 U.S.C. 1324a,  
20 1324b, and 1324c), including compliance with the  
21 requirements of the Electronic Verification System  
22 established under section 274A(d) of the Immigra-  
23 tion and Nationality Act (8 U.S.C. 1324a(d)), as  
24 amended by section 3101. Such personnel shall per-

1 form compliance and monitoring functions, including  
2 the following:

3 (A) Verify compliance of employers partici-  
4 pating in such System with the requirements  
5 for participation that are prescribed by the Sec-  
6 retary.

7 (B) Monitor such System for multiple uses  
8 of social security account numbers and immi-  
9 gration identification numbers that could indi-  
10 cate identity theft or fraud.

11 (C) Monitor such System to identify dis-  
12 criminatory or unfair practices.

13 (D) Monitor such System to identify em-  
14 ployers who are not using such System prop-  
15 erly, including employers who fail to make  
16 available appropriate records with respect to  
17 their queries and any notices of confirmation,  
18 nonconfirmation, or further action.

19 (E) Identify instances in which an em-  
20 ployee alleges that an employer violated the em-  
21 ployee's privacy or civil rights, or misused such  
22 System, and create procedures for an employee  
23 to report such an allegation.

24 (F) Analyze and audit the use of such Sys-  
25 tem and the data obtained through such System



1 to identify fraud trends, including fraud trends  
2 across industries, geographical areas, or em-  
3 ployer size.

4 (G) Analyze and audit the use of such Sys-  
5 tem and the data obtained through such System  
6 to develop compliance tools as necessary to re-  
7 spond to changing patterns of fraud.

8 (H) Provide employers with additional  
9 training and other information on the proper  
10 use of such System, including training related  
11 to privacy and employee rights.

12 (I) Perform threshold evaluation of cases  
13 for referral to the Special Counsel for Immigra-  
14 tion-Related Unfair Employment Practices of  
15 the Department of Justice or the Equal Em-  
16 ployment Opportunity Commission, and other  
17 officials or agencies with responsibility for en-  
18 forcing anti-discrimination, civil rights, privacy,  
19 or worker protection laws, as may be appro-  
20 priate.

21 (J) Any other compliance and monitoring  
22 activities that the Secretary determines are nec-  
23 essary to ensure the functioning of such Sys-  
24 tem.

1                   (K) Investigate identity theft and fraud de-  
2                   tected through such System and undertake the  
3                   necessary enforcement or referral actions.

4                   (L) Investigate use of or access to fraudu-  
5                   lent documents and undertake the necessary en-  
6                   forcement actions.

7                   (M) Perform any other investigations that  
8                   the Secretary determines are necessary to en-  
9                   sure the lawful functioning of such System, and  
10                  undertake any enforcement actions necessary as  
11                  a result of such investigations.

12                 (2) The appropriations necessary to acquire, in-  
13                 stall, and maintain technological equipment nec-  
14                 essary to support the functioning of such System  
15                 and the connectivity between U.S. Citizenship and  
16                 Immigration Services and U.S. Immigration and  
17                 Customs Enforcement, the Department of Justice,  
18                 and other agencies or officials with respect to the  
19                 sharing of information to support such System and  
20                 related immigration enforcement actions.

21                 (3) The appropriations necessary to establish a  
22                 robust redress process for employees who wish to ap-  
23                 peal contested nonconfirmations to ensure the accu-  
24                 racy and fairness of such System.

1           (4) The appropriations necessary to provide a  
2           means by which individuals may access their own  
3           employment authorization data to ensure the accu-  
4           racy of such data, independent of an individual's em-  
5           ployer.

6           (5) The appropriations necessary to carry out  
7           the identity authentication mechanisms described in  
8           section 274A(c)(1)(F) of the Immigration and Na-  
9           tionality Act, as amended by section 3101(a).

10          (6) The appropriations necessary for the Office  
11          for Civil Rights and Civil Liberties and the Office of  
12          Privacy of the Department to perform the respon-  
13          sibilities of such Offices related to such System.

14          (7) The appropriations necessary to make  
15          grants to States to support the States in assisting  
16          the Federal Government in carrying out the provi-  
17          sions of this title and the amendments made by this  
18          title.

19          (c) ESTABLISHMENT OF REIMBURSABLE AGREE-  
20          MENT BETWEEN THE DEPARTMENT OF HOMELAND SE-  
21          curity AND THE SOCIAL SECURITY ADMINISTRATION.—  
22          Effective for fiscal years beginning on or after the date  
23          of enactment of this Act, the Secretary and the Commis-  
24          sioner of Social Security shall enter into and maintain an  
25          agreement that—

1           (1) provides funds to the Commissioner for the  
2           full costs of the responsibilities of the Commissioner  
3           under this section, including—

4                   (A) acquiring, installing, and maintaining  
5           technological equipment and systems necessary  
6           for the fulfillment of the responsibilities of the  
7           Commissioner under this section; and

8                   (B) responding to individuals who contest  
9           a further action notice provided by the employ-  
10          ment verification system established under sec-  
11          tion 274A of the Immigration and Nationality  
12          Act, as amended by section 3101;

13          (2) provides such funds quarterly in advance of  
14          the applicable quarter based on estimating method-  
15          ology agreed to by the Commissioner and the Sec-  
16          retary; and

17          (3) requires an annual accounting and reconcili-  
18          ation of the actual costs incurred and the funds pro-  
19          vided under the agreement which shall be reviewed  
20          by the Office of the Inspector General of the Social  
21          Security Administration and the Department.

22          (d) AUTHORIZATION OF APPROPRIATIONS TO THE  
23          ATTORNEY GENERAL.—There are authorized to be appro-  
24          priated to the Attorney General such sums as may be nec-  
25          essary to carry out the provisions of this title and the

1 amendments made by this title, including enforcing com-  
2 pliance with section 274B of the Immigration and Nation-  
3 ality Act, as amended by section 3105.

4 (e) AUTHORIZATION OF APPROPRIATIONS TO THE  
5 SECRETARY OF STATE.—There are authorized to be ap-  
6 propriated to the Secretary of State such sums as may  
7 be necessary to carry out the provisions of this title and  
8 the amendments made by this title.

9 **SEC. 3302. EFFECTIVE DATE.**

10 Except as otherwise specifically provided, this title  
11 and the amendments made by this title shall take effect  
12 on the date of the enactment of this Act.

13 **SEC. 3303. MANDATORY EXIT SYSTEM.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—Not later than December 31,  
16 2015, the Secretary shall establish a mandatory exit  
17 data system that shall include a requirement for the  
18 collection of data from machine-readable visas, pass-  
19 ports, and other travel and entry documents for all  
20 categories of aliens who are exiting from air and sea  
21 ports of entry.

22 (2) BIOMETRIC EXIT DATA SYSTEM.—Not later  
23 than 2 years after the date of the enactment of this  
24 Act, the Secretary shall establish a mandatory bio-  
25 metric exit data system at the 10 United States air-

1 ports that support the highest volume of inter-  
2 national air travel, as determined by Department of  
3 Transportation international flight departure data.

4 (3) IMPLEMENTATION REPORT.—Not later than  
5 60 days after the date of the enactment of this Act,  
6 the Secretary shall submit to the Committee on  
7 Homeland Security and Governmental Affairs of the  
8 Senate and the Committee on Homeland Security of  
9 the House of Representatives a report the implemen-  
10 tation of the biometric exit data system referred to  
11 in paragraph (2), the impact of such system on any  
12 additional wait times for travelers, and projections  
13 for new officer personnel, including U.S. Customs  
14 and Border Protection officers.

15 (4) EFFECTIVENESS REPORT.—Not later than  
16 3 years after the date of the enactment of this Act,  
17 the Secretary shall submit a report to Congress that  
18 analyzes the effectiveness of biometric exit data col-  
19 lection at the 10 airports referred to in paragraph  
20 (2).

21 (5) MANDATORY BIOMETRIC EXIT DATA SYS-  
22 TEM.—Absent intervening action by Congress, the  
23 Secretary, not later than 6 years after the date of  
24 the enactment of this Act, shall establish a manda-  
25 tory biometric exit data system at all the Core 30

1 international airports in the United States, as so  
2 designated by the Federal Aviation Administration.

3 (6) EXPANSION OF BIOMETRIC EXIT DATA SYS-  
4 TEM TO MAJOR SEA AND LAND PORTS.—Not later  
5 than 6 years after the date of the enactment of this  
6 Act, the Secretary shall submit a plan to Congress  
7 for the expansion of the biometric exit system to  
8 major sea and land entry and exit points within the  
9 United States based upon—

10 (A) the performance of the program estab-  
11 lished pursuant to paragraph (2);

12 (B) the findings of the study conducted  
13 pursuant to paragraph (4); and

14 (C) the projected costs to develop and de-  
15 ploy an effective biometric exit data system.

16 (7) DATA COLLECTION.—There are authorized  
17 to be appropriated, from the Comprehensive Immi-  
18 gration Reform Trust Fund established under sec-  
19 tion 6(a)(1), such sums as may be necessary to  
20 carry out this section

21 (b) INTEGRATION AND INTEROPERABILITY.—

22 (1) INTEGRATION OF DATA SYSTEM.—The Sec-  
23 retary shall fully integrate all data from databases  
24 and data systems that process or contain informa-  
25 tion on aliens, which are maintained by—

## 664

1 (A) the Department, at—

2 (i) the U.S. Immigration and Customs  
3 Enforcement;

4 (ii) the U.S. Customs and Border  
5 Protection; and

6 (iii) the U.S. Citizenship and Immi-  
7 gration Services;

8 (B) the Department of Justice, at the Ex-  
9 ecutive Office for Immigration Review; and

10 (C) the Department of State, at the Bu-  
11 reau of Consular Affairs.

12 (2) INTEROPERABLE COMPONENT.—The fully  
13 integrated data system under paragraph (1) shall be  
14 an interoperable component of the exit data system.

15 (3) INTEROPERABLE DATA SYSTEM.—The Sec-  
16 retary shall fully implement an interoperable elec-  
17 tronic data system to provide current and immediate  
18 access to information in the databases of Federal  
19 law enforcement agencies and the intelligence com-  
20 munity that is relevant to determine—

21 (A) whether to issue a visa; or

22 (B) the admissibility or deportability of an  
23 alien.

24 (4) TRAINING.—The Secretary shall establish  
25 ongoing training modules on immigration law to im-



1       prove adjudications at United States ports of entry,  
2       consulates, and embassies.

3       (c) INFORMATION SHARING.—The Secretary shall re-  
4       port to the appropriate Federal law enforcement agency,  
5       intelligence agency, national security agency, or compo-  
6       nent of the Department of Homeland Security any alien  
7       who was lawfully admitted into the United States and  
8       whose individual data in the integrated exit data system  
9       shows that he or she has not departed the country when  
10      he or she was legally required to do so, and shall ensure  
11      that—

12           (1) if the alien has departed the United States  
13      when he or she was legally required to do so, the in-  
14      formation contained in the integrated exit data sys-  
15      tem is updated to reflect the alien's departure; or

16           (2) if the alien has not departed the United  
17      States when he or she was legally required to do so,  
18      reasonably available enforcement resources are em-  
19      ployed to locate the alien and to commence removal  
20      proceedings against the alien.

1 **SEC. 3304. IDENTITY-THEFT RESISTANT MANIFEST INFOR-**  
2 **MATION FOR PASSENGERS, CREW, AND NON-**  
3 **CREW ONBOARD DEPARTING AIRCRAFT AND**  
4 **VESSELS.**

5 (a) DEFINITIONS.—Except as otherwise specifically  
6 provided, in this section:

7 (1) IDENTITY-THEFT RESISTANT COLLECTION  
8 LOCATION.—The term “identity-theft resistant col-  
9 lection location” means a location within an airport  
10 or seaport—

11 (A) within the path of the departing alien,  
12 such that the alien would not need to signifi-  
13 cantly deviate from that path to comply with  
14 exit requirements at which air or vessel carrier  
15 employees, as applicable, either presently or  
16 routinely are available if an alien needs proc-  
17 essing assistance; and

18 (B) which is equipped with technology that  
19 can securely collect and transmit identity-theft  
20 resistant departure information to the Depart-  
21 ment.

22 (2) US-VISIT.—The term “US-VISIT” means  
23 the United States-Visitor and Immigrant Status In-  
24 dicator Technology system.

25 (b) IDENTITY THEFT RESISTANT MANIFEST INFOR-  
26 MATION.—

1           (1) PASSPORT OR VISA COLLECTION REQUIRE-  
2           MENT.—Except as provided in subsection (c), an ap-  
3           propriate official of each commercial aircraft or ves-  
4           sel departing from the United States to any port or  
5           place outside the United States shall ensure trans-  
6           mission to U.S. Customs and Border Protection of  
7           identity-theft resistant departure manifest informa-  
8           tion covering alien passengers, crew, and non-crew.  
9           Such identity-theft resistant departure manifest in-  
10          formation—

11                 (A) shall be transmitted to U.S. Customs  
12                 and Border Protection at the place and time  
13                 specified in paragraph (3) by means approved  
14                 by the Secretary; and

15                 (B) shall set forth the information speci-  
16                 fied in paragraph (4) or other information as  
17                 required by the Secretary.

18           (2) MANNER OF COLLECTION.—Carriers board-  
19           ing alien passengers, crew, and noncrew subject to  
20           the requirement to provide information upon depart-  
21           ure for US-VISIT processing shall collect identity-  
22           theft resistant departure manifest information from  
23           each alien at an identity-theft resistant collection lo-  
24           cation at the airport or seaport before boarding that  
25           alien on transportation for departure from the

1 United States, at a time as close to the originally  
2 scheduled departure of that passenger's aircraft or  
3 sea vessel as practicable.

4 (3) TIME AND MANNER OF SUBMISSION.—

5 (A) IN GENERAL.—The appropriate official  
6 specified in paragraph (1) shall ensure trans-  
7 mission of the identity-theft resistant departure  
8 manifest information required and collected  
9 under paragraphs (1) and (2) to the Data Cen-  
10 ter or Headquarters of U.S. Customs and Bor-  
11 der Protection, or such other data center as  
12 may be designated.

13 (B) TRANSMISSION.—The biometric depar-  
14 ture information may be transmitted to the De-  
15 partment over any means of communication au-  
16 thorized by the Secretary for the transmission  
17 of other electronic manifest information con-  
18 taining personally identifiable information and  
19 under transmission standards currently applica-  
20 ble to other electronic manifest information.

21 (C) SUBMISSION ALONG WITH OTHER IN-  
22 FORMATION.—Files containing the identity-  
23 theft resistant departure manifest informa-  
24 tion—

- 1 (i) may be sent with other electronic  
2 manifest data prior to departure or may be  
3 sent separately from any topically related  
4 electronic manifest data; and  
5 (ii) may be sent in batch mode.

6 (4) INFORMATION REQUIRED.—The identity-  
7 theft resistant departure information required under  
8 paragraphs (1) through (3) for each covered pas-  
9 senger or crew member shall contain alien data from  
10 machine-readable visas, passports, and other travel  
11 and entry documents issued to the alien.

12 (c) EXCEPTION.—The identity-theft resistant depar-  
13 ture information specified in this section is not required  
14 for any alien active duty military personnel traveling as  
15 passengers on board a departing Department of Defense  
16 commercial chartered aircraft.

17 (d) CARRIER MAINTENANCE AND USE OF IDENTITY-  
18 THEFT RESISTANT DEPARTURE MANIFEST INFORMA-  
19 TION.—Carrier use of identity-theft resistant departure  
20 manifest information for purposes other than as described  
21 in standards set by the Secretary is prohibited. Carriers  
22 shall immediately notify the Chief Privacy Officer of the  
23 Department in writing in the event of unauthorized use  
24 or access, or breach, of identity-theft resistant departure  
25 manifest information.

1       (e) COLLECTION AT SPECIFIED LOCATION.—If the  
2 Secretary determines that an air or vessel carrier has not  
3 adequately complied with the provisions of this section, the  
4 Secretary may, in the Secretary's discretion, require the  
5 air or vessel carrier to collect identity-theft resistant de-  
6 parture manifest information at a specific location prior  
7 to the issuance of a boarding pass or other document on  
8 the international departure, or the boarding of crew, in  
9 any port through which the carrier boards aliens for inter-  
10 national departure under the supervision of the Secretary  
11 for such period as the Secretary considers appropriate to  
12 ensure the adequate collection and transmission of biomet-  
13 ric departure manifest information.

14       (f) FUNDING.—There shall be appropriated to the In-  
15 terior Enforcement Account \$500,000,000 to reimburse  
16 carriers for their reasonable actual expenses in carrying  
17 out their duties as described in this section.

18       (g) DETERMINATION OF BUDGETARY EFFECTS.—

19           (1) EMERGENCY DESIGNATION FOR CONGRES-  
20 SIONAL ENFORCEMENT.—In the Senate, amounts  
21 made available under this section are designated as  
22 an emergency requirement pursuant to section  
23 403(a) of S. Con. Res. 13 (111th Congress), the  
24 concurrent resolution on the budget for fiscal year  
25 2010.

1           (2) EMERGENCY DESIGNATION FOR STATUTORY  
2       PAYGO.—Amounts made available under this section  
3       are designated as an emergency requirement under  
4       section 4(g) of the Statutory Pay-As-You-Go Act of  
5       2010 (Public Law 111–139; 2 U.S.C. 933(g)).

6   **SEC. 3305. PROFILING.**

7       (a) PROHIBITION.—In making routine or sponta-  
8       neous law enforcement decisions, such as ordinary traffic  
9       stops, Federal law enforcement officers may not use race  
10      or ethnicity to any degree, except that officers may rely  
11      on race and ethnicity if a specific suspect description ex-  
12      ists.

13      (b) EXCEPTIONS.—

14          (1) SPECIFIC INVESTIGATION.—In conducting  
15      activities in connection with a specific investigation,  
16      Federal law enforcement officers may consider race  
17      and ethnicity only to the extent that there is trust-  
18      worthy information, relevant to the locality or time  
19      frame, that links persons of a particular race or eth-  
20      nicity to an identified criminal incident, scheme, or  
21      organization. This standard applies even where the  
22      use of race or ethnicity might otherwise be lawful.

23          (2) NATIONAL SECURITY.—In investigating or  
24      preventing threats to national security or other cata-  
25      strophic events (including the performance of duties

1       related to air transportation security), or in enforce-  
2       ing laws protecting the integrity of the Nation's bor-  
3       ders, Federal law enforcement officers may not con-  
4       sider race or ethnicity except to the extent permitted  
5       by the Constitution and laws of the United States.

6           (3) DEFINED TERM.—In this section, the term  
7       “Federal law enforcement officer” means any offi-  
8       cer, agent, or employee of the United States author-  
9       ized by law or by a Government agency to engage  
10      in or supervise the prevention, detection, investiga-  
11      tion, or prosecution of any violation of Federal law.

12      (c) STUDY AND REGULATIONS.—

13           (1) DATA COLLECTION.—Not later than 180  
14      days after the date of the enactment of this Act, the  
15      Secretary shall begin collecting data regarding the  
16      individualized immigration enforcement activities of  
17      covered Department officers.

18           (2) STUDY.—Not later than 180 days after  
19      data collection under paragraph (1) commences, the  
20      Secretary shall complete a study analyzing the data.

21           (3) REGULATIONS.—Not later than 90 days  
22      after the date the study required by paragraph (2)  
23      is completed, the Secretary, in consultation with the  
24      Attorney General, shall issue regulations regarding  
25      the use of race, ethnicity, and any other suspect



1        classifications the Secretary deems appropriate by  
2        covered Department officers.

3            (4) REPORTS.—Not later than 30 days after  
4        completion of the study required by paragraph (2),  
5        the Secretary shall submit the study to—

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

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

10          (C) the Committee on Appropriations of  
11        the Senate;

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

14          (E) the Committee on the Judiciary of the  
15        Senate; and

16          (F) the Committee on the Judiciary of the  
17        House of Representatives.

18          (5) DEFINED TERM.—In this subsection, the  
19        term “covered Department officer” means any offi-  
20        cer, agent, or employee of United States Customs  
21        and Border Protection, United States Immigration  
22        and Customs Enforcement, or the Transportation  
23        Security Administration.

1   **SEC. 3306. ENHANCED PENALTIES FOR CERTAIN DRUG OF-**  
2                   **FENSES ON FEDERAL LANDS.**

3           (a) CULTIVATING OR MANUFACTURING CONTROLLED  
4 SUBSTANCES ON FEDERAL PROPERTY.—Section  
5 401(b)(5) of the Controlled Substances Act (21 U.S.C.  
6 841(b)(5)) is amended by striking “as provided in this  
7 subsection” and inserting “for not more than 10 years,  
8 in addition to any other term of imprisonment imposed  
9 under this subsection,”.

10          (b) USE OF HAZARDOUS SUBSTANCES.—Pursuant to  
11 its authority under section 994 of title 28, United States  
12 Code, the United States Sentencing Commission shall  
13 amend the Federal Sentencing Guidelines and policy state-  
14 ments to ensure that the guidelines provide an additional  
15 penalty increase of 2 offense levels above the sentence oth-  
16 erwise applicable for a violation of section 401(a) of the  
17 Controlled Substances Act (21 U.S.C. 841(a)) if the of-  
18 fense—

19           (1) includes the use of a poison, chemical, or  
20           other hazardous substance to cultivate or manufac-  
21           ture controlled substances on Federal property;

22           (2) creates a hazard to humans, wildlife, or do-  
23           mestic animals;

24           (3) degrades or harms the environment or nat-  
25           ural resources; or

1           (4) pollutes an aquifer, spring, stream, river, or  
2       body of water.

3       (c) STREAM DIVERSION OR CLEAR CUTTING ON  
4       FEDERAL PROPERTY.—

5           (1) PROHIBITION ON STREAM DIVERSION OR  
6       CLEAR CUTTING ON FEDERAL PROPERTY.—Section  
7       401(b) of the Controlled Substances Act is amended  
8       by adding at the end the following:

9           “(8) DESTRUCTION OF BODIES OF WATER.—  
10      Any person who violates subsection (a) in a manner  
11      that diverts, redirects, obstructs, or drains an aquifer,  
12      spring, stream, river, or body of water or clear  
13      cuts timber while cultivating or manufacturing a  
14      controlled substance on Federal property shall be  
15      fined in accordance with title 18, United States  
16      Code.”.

17          (2) FEDERAL SENTENCING GUIDELINES EN-  
18      HANCEMENT.—Pursuant to its authority under section  
19      994 of title 28, United States Code, the United  
20      States Sentencing Commission shall amend the Federal  
21      Sentencing Guidelines and policy statements to  
22      ensure that the guidelines provide an additional penalty  
23      increase of 2 offense levels for above the sentence  
24      otherwise applicable for a violation of section  
25      401(a) of the Controlled Substances Act (21 U.S.C.

1       841(a)) if the offense involves the diversion, redirec-  
2       tion, obstruction, or draining of an aquifer, spring,  
3       stream, river, or body of water or the clear cut of  
4       timber while cultivating or manufacturing a con-  
5       trolled substance on Federal property.

6       (d) BOOBY TRAPS ON FEDERAL LAND.—Section  
7       401(d)(1) of the Controlled Substances Act (21 U.S.C.  
8       841(d)(1)) is amended by inserting “cultivated,” after “is  
9       being”.

10       (e) USE OR POSSESSION OF FIREARMS IN CONNEC-  
11       TION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pur-  
12       suant to its authority under section 994 of title 28, United  
13       States Code, the United States Sentencing Commission  
14       shall amend the Federal Sentencing Guidelines and policy  
15       statements to ensure that the guidelines provide an addi-  
16       tional penalty increase of 2 offense levels above the sen-  
17       tence otherwise applicable for a violation of section 401(a)  
18       of the Controlled Substances Act (21 U.S.C. 841(a)) if  
19       the offense involves the possession of a firearm while culti-  
20       vating or manufacturing controlled substances on Federal  
21       lands.

1     **Subtitle D—Asylum and Refugee**  
2                     **Provisions**

3     **SEC. 3400. SHORT TITLE.**

4             This subtitle may be cited as the “Frank R. Lauten-  
5     berg Asylum and Refugee Reform Act”.

6     **SEC. 3401. TIME LIMITS AND EFFICIENT ADJUDICATION OF**  
7                     **GENUINE ASYLUM CLAIMS.**

8             Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amend-  
9     ed—

10            (1) in subparagraph (A), by inserting “or the  
11     Secretary of Homeland Security” after “Attorney  
12     General” both places such term appears;

13            (2) by striking subparagraphs (B) and (D);

14            (3) by redesignating subparagraph (C) as sub-  
15     paragraph (B);

16            (4) in subparagraph (B), as redesignated, by  
17     striking “subparagraph (D)” and inserting “sub-  
18     paragraphs (C) and (D)”; and

19            (5) by inserting after subparagraph (B), as re-  
20     designated, the following:

21            “(C)   CHANGED   CIRCUMSTANCES.—Not-  
22     withstanding subparagraph (B), an application  
23     for asylum of an alien may be considered if the  
24     alien demonstrates, to the satisfaction of the  
25     Attorney General or the Secretary of Homeland

1 Security, the existence of changed cir-  
2 cumstances that materially affect the appli-  
3 cant's eligibility for asylum.

4 “(D) MOTION TO REOPEN CERTAIN MERI-  
5 TORIOUS CLAIMS.—Notwithstanding subpara-  
6 graph (B) or section 240(c)(7), an alien may  
7 file a motion to reopen an asylum claim during  
8 the 2-year period beginning on the date of the  
9 enactment of the Border Security, Economic  
10 Opportunity, and Immigration Modernization  
11 Act if the alien—

12 “(i) was denied asylum based solely  
13 upon a failure to meet the 1-year applica-  
14 tion filing deadline in effect on the date on  
15 which the application was filed;

16 “(ii) was granted withholding of re-  
17 moval pursuant to section 241(b)(3) and  
18 has not obtained lawful permanent resi-  
19 dence in the United States pursuant to any  
20 other provision of law;

21 “(iii) is not subject to the safe third  
22 country exception under subparagraph (A)  
23 or a bar to asylum under subsection (b)(2)  
24 and should not be denied asylum as a mat-  
25 ter of discretion; and

1                   “(iv) is physically present in the  
2                   United States when the motion is filed.”.

3   **SEC. 3402. REFUGEE FAMILY PROTECTIONS.**

4       (a) CHILDREN OF REFUGEE OR ASYLEE SPOUSES  
5   AND CHILDREN.—A child of an alien who qualifies for ad-  
6   mission as a spouse or child under section 207(c)(2)(A)  
7   or 208(b)(3) of the Immigration and Nationality Act (8  
8   U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to  
9   the same status as such alien if the child—

10           (1) is accompanying or following to join such  
11   alien; and

12           (2) is otherwise eligible under section  
13   207(c)(2)(A) or 208(b)(3) of the Immigration and  
14   Nationality Act.

15   **SEC. 3403. CLARIFICATION ON DESIGNATION OF CERTAIN**  
16           **REFUGEES.**

17       (a) TERMINATION OF CERTAIN PREFERENTIAL  
18   TREATMENT IN IMMIGRATION OF AMERASIANS.—Section  
19   584 of the Foreign Operations, Export Financing, and Re-  
20   lated Programs Appropriations Act, 1988 (8 U.S.C. 1101  
21   note) is amended by adding at the end the following:

22           “(f) No visa may be issued under this section if the  
23   petition or application for such visa is submitted on or  
24   after the date of the enactment of the Border Security,

1 Economic Opportunity, and Immigration Modernization  
2 Act.”.

3 (b) REFUGEE DESIGNATION.—Section 207(c)(1) (8  
4 U.S.C. 1157(c)(1)) is amended—

5 (1) by inserting “(A)” before “Subject to the  
6 numerical limitations”; and

7 (2) by adding at the end the following:

8 “(B)(i) The President, upon a recommendation of the  
9 Secretary of State made in consultation with the Secretary  
10 of Homeland Security, and after appropriate consultation,  
11 may designate specifically defined groups of aliens—

12 “(I) whose resettlement in the United States is  
13 justified by humanitarian concerns or is otherwise in  
14 the national interest; and

15 “(II) who—

16 “(aa) share common characteristics that  
17 identify them as targets of persecution on ac-  
18 count of race, religion, nationality, membership  
19 in a particular social group, or political opinion;  
20 or

21 “(bb) having been identified as targets as  
22 described in item (aa), share a common need  
23 for resettlement due to a specific vulnerability.

24 “(ii) An alien who establishes membership in a group  
25 designated under clause (i) to the satisfaction of the Sec-



1   retary of Homeland Security shall be considered a refugee  
2   for purposes of admission as a refugee under this section  
3   unless the Secretary determines that such alien ordered,  
4   incited, assisted, or otherwise participated in the persecu-  
5   tion of any person on account of race, religion, nationality,  
6   membership in a particular social group, or political opin-  
7   ion.

8       “(iii) A designation under clause (i) is for purposes  
9   of adjudicatory efficiency and may be revoked by the  
10  President at any time after notification to Congress.

11       “(iv) Categories of aliens established under section  
12  599D of the Foreign Operations, Export Financing, and  
13  Related Programs Appropriations Act, 1990 (Public Law  
14  101–167; 8 U.S.C. 1157 note)—

15           “(I) shall be designated under clause (i) until  
16   the end of the first fiscal year commencing after the  
17   date of the enactment of the Border Security, Eco-  
18   nomic Opportunity, and Immigration Modernization  
19   Act; and

20           “(II) shall be eligible for designation thereafter  
21   at the discretion of the President, considering,  
22   among other factors, whether a country under con-  
23   sideration has been designated by the Secretary of  
24   State as a ‘Country of Particular Concern’ for en-

1 gaging in or tolerating systematic, ongoing, and  
2 egregious violations of religious freedom.

3 “(v) A designation under clause (i) shall not influence  
4 decisions to grant, to any alien, asylum under section 208,  
5 protection under section 241(b)(3), or protection under  
6 the Convention Against Torture and Other Cruel, Inhu-  
7 man or Degrading Treatment or Punishment, done at  
8 New York December 10, 1984.

9 “(vi) A decision to deny admission under this section  
10 to an alien who establishes to the satisfaction of the Sec-  
11 retary that the alien is a member of a group designated  
12 under clause (i) shall—

13 “(I) be in writing; and

14 “(II) state, to the maximum extent feasible, the  
15 reason for the denial.

16 “(vii) Refugees admitted pursuant to a designation  
17 under clause (i) shall be subject to the number of admis-  
18 sions and be admissible under this section.”.

19 **SEC. 3404. ASYLUM DETERMINATION EFFICIENCY.**

20 Section 235(b)(1)(B)(ii) (8 U.S.C. 1225(b)(1)(B)(ii))  
21 is amended by striking “asylum.” and inserting “asylum  
22 by an asylum officer. The asylum officer, after conducting  
23 a nonadversarial asylum interview and seeking supervisory  
24 review, may grant asylum to the alien under section 208  
25 or refer the case to a designee of the Attorney General,

1 for a de novo asylum determination, for relief under the  
2 Convention Against Torture and Other Cruel, Inhuman or  
3 Degrading Treatment or Punishment, done at New York  
4 December 10, 1984, or for protection under section  
5 241(b)(3).”.

6 **SEC. 3405. STATELESS PERSONS IN THE UNITED STATES.**

7 (a) IN GENERAL.—Chapter 1 of title II (8 U.S.C.  
8 1151 et seq.) is amended by adding at the end the fol-  
9 lowing:

10 **“SEC. 210A. PROTECTION OF CERTAIN STATELESS PER-**  
11 **SONS IN THE UNITED STATES.**

12 “(a) STATELESS PERSONS.—

13 “(1) IN GENERAL.—In this section, the term  
14 ‘stateless person’ means an individual who is not  
15 considered a national under the operation of the  
16 laws of any country.

17 “(2) DESIGNATION OF SPECIFIC STATELESS  
18 GROUPS.—The Secretary of Homeland Security, in  
19 consultation with the Secretary of State, may, in the  
20 discretion of the Secretary, designate specific groups  
21 of individuals who are considered stateless persons,  
22 for purposes of this section.

23 “(b) STATUS OF STATELESS PERSONS.—

24 “(1) RELIEF FOR CERTAIN INDIVIDUALS DE-  
25 TERMINED TO BE STATELESS PERSONS.—The Sec-

1       retary of Homeland Security or the Attorney Gen-  
2       eral may, in his or her discretion, provide conditional  
3       lawful status to an alien who is otherwise inadmis-  
4       sible or deportable from the United States if the  
5       alien—

6               “(A) is a stateless person present in the  
7       United States;

8               “(B) applies for such relief;

9               “(C) has not lost his or her nationality as  
10       a result of his or her voluntary action or know-  
11       ing inaction after arrival in the United States;

12               “(D) except as provided in paragraphs (2)  
13       and (3), is not inadmissible under section  
14       212(a); and

15               “(E) is not described in section  
16       241(b)(3)(B)(i).

17       “(2) INAPPLICABILITY OF CERTAIN PROVI-  
18       SIONS.—The provisions under paragraphs (4), (5),  
19       (7), and (9)(B) of section 212(a) shall not apply to  
20       any alien seeking relief under paragraph (1).

21       “(3) WAIVER.—The Secretary or the Attorney  
22       General may waive any other provisions of such sec-  
23       tion, other than subparagraphs (B), (C), (D)(ii),  
24       (E), (G), (H), or (I) of paragraph (2), paragraph  
25       (3), paragraph (6)(C)(i) (with respect to misrepre-

1       sentations relating to the application for relief under  
2       paragraph (1)), or subparagraphs (A), (C), (D), or  
3       (E) of paragraph (10) of section 212(a), with re-  
4       spect to such an alien for humanitarian purposes, to  
5       assure family unity, or if it is otherwise in the public  
6       interest.

7               “(4) SUBMISSION OF PASSPORT OR TRAVEL  
8       DOCUMENT.—Any alien who seeks relief under this  
9       section shall submit to the Secretary of Homeland  
10      Security or the Attorney General—

11               “(A) any available passport or travel docu-  
12              ment issued at any time to the alien (whether  
13              or not the passport or document has expired or  
14              been cancelled, rescinded, or revoked); or

15               “(B) an affidavit, sworn under penalty of  
16              perjury—

17               “(i) stating that the alien has never  
18              been issued a passport or travel document;  
19              or

20               “(ii) identifying with particularity any  
21              such passport or travel document and ex-  
22              plaining why the alien cannot submit it.

23               “(5) WORK AUTHORIZATION.—The Secretary of  
24       Homeland Security may authorize an alien who has  
25       applied for and is found prima facie eligible for or

1       been granted relief under paragraph (1) to engage  
2       in employment in the United States.

3           “(6) TRAVEL DOCUMENTS.—The Secretary may  
4       issue appropriate travel documents to an alien who  
5       has been granted relief under paragraph (1) that  
6       would allow him or her to travel abroad and be ad-  
7       mitted to the United States upon return, if other-  
8       wise admissible.

9           “(7) TREATMENT OF SPOUSE AND CHIL-  
10       DREN.—The spouse or child of an alien who has  
11       been granted conditional lawful status under para-  
12       graph (1) shall, if not otherwise eligible for admis-  
13       sion under paragraph (1), be granted conditional  
14       lawful status under this section if accompanying, or  
15       following to join, such alien if—

16           “(A) the spouse or child is admissible (ex-  
17       cept as otherwise provided in paragraphs (2)  
18       and (3)) and is not described in section  
19       241(b)(3)(B)(i); and

20           “(B) the qualifying relationship to the  
21       principal beneficiary existed on the date on  
22       which such alien was granted conditional lawful  
23       status.

24       “(c) ADJUSTMENT OF STATUS.—

1           “(1) INSPECTION AND EXAMINATION.—At the  
2           end of the 1-year period beginning on the date on  
3           which an alien has been granted conditional lawful  
4           status under subsection (b), the alien may apply for  
5           lawful permanent residence in the United States if—

6                   “(A) the alien has been physically present  
7                   in the United States for at least 1 year;

8                   “(B) the alien’s conditional lawful status  
9                   has not been terminated by the Secretary of  
10                  Homeland Security or the Attorney General,  
11                  pursuant to such regulations as the Secretary  
12                  or the Attorney General may prescribe; and

13                  “(C) the alien has not otherwise acquired  
14                  permanent resident status.

15           “(2) REQUIREMENTS FOR ADJUSTMENT OF  
16           STATUS.—The Secretary of Homeland Security or  
17           the Attorney General, under such regulations as the  
18           Secretary or the Attorney General may prescribe,  
19           may adjust the status of an alien granted condi-  
20           tional lawful status under subsection (b) to that of  
21           an alien lawfully admitted for permanent residence  
22           if such alien—

23                   “(A) is a stateless person;

24                   “(B) properly applies for such adjustment  
25                   of status;

1           “(C) has been physically present in the  
2           United States for at least 1 year after being  
3           granted conditional lawful status under sub-  
4           section (b);

5           “(D) is not firmly resettled in any foreign  
6           country; and

7           “(E) is admissible (except as otherwise  
8           provided under paragraph (2) or (3) of sub-  
9           section (b)) as an immigrant under this chapter  
10          at the time of examination of such alien for ad-  
11          justment of status.

12          “(3) RECORD.—Upon approval of an applica-  
13          tion under this subsection, the Secretary of Home-  
14          land Security shall establish a record of the alien’s  
15          admission for lawful permanent residence as of the  
16          date that is 1 year before the date of such approval.

17          “(4) NUMERICAL LIMITATION.—The number of  
18          aliens who may receive an adjustment of status  
19          under this section for a fiscal year shall be subject  
20          to the numerical limitation of section 203(b)(4).

21          “(d) PROVING THE CLAIM.—In determining an  
22          alien’s eligibility for lawful conditional status or adjust-  
23          ment of status under this subsection, the Secretary of  
24          Homeland Security or the Attorney General shall consider  
25          any credible evidence relevant to the application. The de-



1 termination of what evidence is credible and the weight  
2 to be given that evidence shall be within the sole discretion  
3 of the Secretary or the Attorney General.

4 “(e) REVIEW.—

5 “(1) ADMINISTRATIVE REVIEW.—No appeal  
6 shall lie from the denial of an application by the  
7 Secretary, but such denial will be without prejudice  
8 to the alien’s right to renew the application in pro-  
9 ceedings under section 240.

10 “(2) MOTIONS TO REOPEN.—Notwithstanding  
11 any limitation imposed by law on motions to reopen  
12 removal, deportation, or exclusion proceedings, any  
13 individual who is eligible for relief under this section  
14 may file a motion to reopen proceedings in order to  
15 apply for relief under this section. Any such motion  
16 shall be filed within 2 years of the date of the enact-  
17 ment of the Border Security, Economic Opportunity,  
18 and Immigration Modernization Act.

19 “(f) LIMITATION.—

20 “(1) APPLICABILITY.—The provisions of this  
21 section shall only apply to aliens present in the  
22 United States.

23 “(2) SAVINGS PROVISION.—Nothing in this sec-  
24 tion may be construed to authorize or require—

1           “(A) the admission of any alien to the  
2           United States;

3           “(B) the parole of any alien into the  
4           United States; or

5           “(C) the grant of any motion to reopen or  
6           reconsider filed by an alien after departure or  
7           removal from the United States.”.

8           (b) JUDICIAL REVIEW.—Section 242(a)(2)(B)(ii) (8  
9           U.S.C. 1252(a)(2)(B)(ii)) is amended by striking  
10          “208(a).” and inserting “208(a) or 210A.”.

11          (c) CONFORMING AMENDMENT.—Section 203(b)(4)  
12          (8 U.S.C. 1153(b)(4)) is amended by inserting “to aliens  
13          granted an adjustment of status under section 210A(c)  
14          or” after “level.”.

15          (d) CLERICAL AMENDMENT.—The table of contents  
16          for the Immigration and Nationality Act is amended by  
17          inserting after the item relating to section 210 the fol-  
18          lowing:

          “Sec. 210A. Protection of stateless persons in the United States.”.

19          **SEC. 3406. U VISA ACCESSIBILITY.**

20          Section 214(p)(2)(A) (8 U.S.C. 1184(p)(2)(A)) is  
21          amended by striking “10,000.” and inserting “18,000, of  
22          which not more than 3,000 visas may be issued for aliens  
23          who are victims of a covered violation described in section  
24          101(a)(15)(U).”.

1   **SEC. 3407. WORK AUTHORIZATION WHILE APPLICATIONS**  
2                   **FOR U AND T VISAS ARE PENDING.**

3           (a) U VISAS.—Section 214(p) (8 U.S.C. 1184(p)), as  
4 amended by section 3406 of this Act, is further amend-  
5 ed—

6               (1) in paragraph (6), by striking the last sen-  
7 tence; and

8               (2) by adding at the end the following:

9               “(7) WORK AUTHORIZATION.—Notwithstanding  
10 any provision of this Act granting eligibility for em-  
11 ployment in the United States, the Secretary of  
12 Homeland Security shall grant employment author-  
13 ization to an alien who has filed an application for  
14 nonimmigrant status under section 101(a)(15)(U)  
15 on the date that is the earlier of—

16                   “(A) the date on which the alien’s applica-  
17 tion for such status is approved; or

18                   “(B) a date determined by the Secretary  
19 that is not later than 180 days after the date  
20 on which the alien filed the application.”.

21           (b) T VISAS.—Section 214(o) (8 U.S.C. 1184(o)) is  
22 amended by adding at the end the following:

23               “(8) Notwithstanding any provision of this Act  
24 granting eligibility for employment in the United  
25 States, the Secretary of Homeland Security shall  
26 grant employment authorization to an alien who has

1 filed an application for nonimmigrant status under  
2 section 101(a)(15)(T) on the date that is the earlier  
3 of—

4 “(A) the date on which the alien’s applica-  
5 tion for such status is approved; or

6 “(B) a date determined by the Secretary  
7 that is not later than 180 days after the date  
8 on which the alien filed the application.”.

9 **SEC. 3408. REPRESENTATION AT OVERSEAS REFUGEE**  
10 **INTERVIEWS.**

11 Section 207(c) (8 U.S.C. 1157(c)) is amended by  
12 adding at the end the following:

13 “(5) The adjudicator of an application for ref-  
14 ugee status under this section shall consider all rel-  
15 evant evidence and maintain a record of the evidence  
16 considered.

17 “(6) An applicant for refugee status may be  
18 represented, including at a refugee interview, at no  
19 expense to the Government, by an attorney or ac-  
20 credited representative who—

21 “(A) was chosen by the applicant; and

22 “(B) is authorized by the Secretary of  
23 Homeland Security to be recognized as the rep-  
24 resentative of such applicant in an adjudication  
25 under this section.

1           “(7)(A) A decision to deny an application for  
2       refugee status under this section—

3                   “(i) shall be in writing; and

4                   “(ii) shall provide, to the maximum extent  
5       feasible, information on the reason for the de-  
6       nial, including—

7                           “(I) the facts underlying the deter-  
8       mination; and

9                           “(II) whether there is a waiver of in-  
10      admissibility available to the applicant.

11           “(B) The basis of any negative credibility find-  
12      ing shall be part of the written decision.

13           “(8)(A) An applicant who is denied refugee sta-  
14      tus under this section may file a request with the  
15      Secretary for a review of his or her application not  
16      later than 120 days after such denial.

17           “(B) A request filed under subparagraph (A)  
18      shall be adjudicated by refugee officers who have re-  
19      ceived training on considering requests for review of  
20      refugee applications that have been denied.

21           “(C) The Secretary shall publish the standard  
22      applied to a request for review.

23           “(D) A request for review may result in the de-  
24      cision being granted, denied, or reopened for a fur-  
25      ther interview.

1           “(E) A decision on a request for review under  
2           this paragraph—

3                   “(i) shall be in writing; and

4                   “(ii) shall provide, to the maximum extent  
5           feasible, information on the reason for the de-  
6           nial.”.

7   **SEC. 3409. LAW ENFORCEMENT AND NATIONAL SECURITY**  
8                   **CHECKS.**

9           (a) REFUGEES.—Section 207(c)(1) (8 U.S.C.  
10 1157(c)(1)) is amended by adding at the end the fol-  
11 lowing: “No alien shall be admitted as a refugee until the  
12 identity of the applicant, including biographic and biomet-  
13 ric data, has been checked against all appropriate records  
14 or databases maintained by the Secretary of Homeland  
15 Security, the Attorney General, the Secretary of State,  
16 and other Federal records or databases that the Secretary  
17 of Homeland Security considers necessary, to determine  
18 any national security, law enforcement, or other grounds  
19 on which the alien may be inadmissible to the United  
20 States or ineligible to apply for or be granted refugee sta-  
21 tus.”.

22           (b) ASYLEES.—Section 208(d)(5)(A)(i) (8 U.S.C.  
23 1158(d)(5)(A)(i)) is amended to read as follows:

24                   “(i) asylum shall not be granted until  
25           the identity of the applicant, using bio-

1 graphic and biometric data, has been  
2 checked against all appropriate records or  
3 databases maintained by the Secretary of  
4 Homeland Security, the Attorney General,  
5 the Secretary of State, and other Federal  
6 records or databases that the Secretary of  
7 Homeland Security considers necessary, to  
8 determine any national security, law en-  
9 forcement, or other grounds on which the  
10 alien may be inadmissible to the United  
11 States or ineligible to apply for or be  
12 granted asylum;”.

13 **SEC. 3410. TIBETAN REFUGEE ASSISTANCE.**

14 (a) **SHORT TITLE.**—This section may be cited as the  
15 “Tibetan Refugee Assistance Act of 2013”.

16 (b) **TRANSITION FOR DISPLACED TIBETANS.**—Not-  
17 withstanding the numerical limitations specified in sec-  
18 tions 201 and 202 of the Immigration and Nationality Act  
19 (8 U.S.C. 1151 and 1152), 5,000 immigrant visas shall  
20 be made available to qualified displaced Tibetans described  
21 in subsection (c) during the 3-year period beginning on  
22 October 1, 2013.

23 (c) **QUALIFIED DISPLACED TIBETAN DESCRIBED.**—

24 (1) **IN GENERAL.**—An individual is a qualified  
25 displaced Tibetan if such individual—

1 (A) is a native of Tibet; and

2 (B) has been continuously residing in India  
3 or Nepal since before the date of the enactment  
4 of this Act.

5 (2) NATIVE OF TIBET DESCRIBED.—For pur-  
6 poses of paragraph (1)(A), an individual shall be  
7 considered a native of Tibet if such individual—

8 (A) was born in Tibet; or

9 (B) is the son, daughter, grandson, or  
10 granddaughter of an individual who was born in  
11 Tibet.

12 (d) DERIVATIVE STATUS FOR SPOUSES AND CHIL-  
13 DREN.—A spouse or child (as defined in subparagraphs  
14 (A), (B), (C), (D), or (E) of section 101(b)(1) of the Im-  
15 migration and Nationality Act (8 U.S.C. 1101(b)(1)))  
16 shall, if not otherwise entitled to an immigrant status and  
17 the immediate issuance of a visa under this section, be  
18 entitled to the same status, and the same order of consid-  
19 eration, provided under this section, if accompanying, or  
20 following to join, the spouse or parent of such spouse or  
21 child.

22 (e) DISTRIBUTION OF VISA NUMBERS.—The Sec-  
23 retary of State shall ensure that immigrant visas provided  
24 under subsection (b) are made available to qualified dis-  
25 placed Tibetans described in subsection (c) or (d) in an



1 equitable manner, giving preference to those qualified dis-  
2 placed Tibetans who—

3           (1) are not resettled in India or Nepal; or

4           (2) are most likely to be resettled successfully  
5       in the United States.

6 **SEC. 3411. TERMINATION OF ASYLUM OR REFUGEE STATUS.**

7       (a) **TERMINATION OF STATUS.**—Except as provided  
8 in subsections (b) and (c), any alien who is granted asylum  
9 or refugee status under this Act or the Immigration and  
10 Nationality Act (8 U.S.C. 1101 et seq.), who, without good  
11 cause as determined by the Secretary or the Attorney Gen-  
12 eral, subsequently returns to the country of such alien's  
13 nationality or, in the case of an alien having no nation-  
14 ality, returns to any country in which such alien last habit-  
15 ually resided, and who applied for such status because of  
16 persecution or a well-founded fear of persecution in that  
17 country on account of race, religion, nationality, member-  
18 ship in a particular social group, or political opinion, shall  
19 have his or her refugee or asylum status terminated.

20       (b) **WAIVER.**—The Secretary has discretion to waive  
21 subsection (a) if it is established to the satisfaction of the  
22 Secretary or the Attorney General that the alien had good  
23 cause for the return. The waiver may be sought prior to  
24 departure from the United States or upon return.

1 (c) EXCEPTION FOR CERTAIN ALIENS FROM  
2 CUBA.—Subsection (a) shall not apply to an alien who is  
3 eligible for adjustment to that of an alien lawfully admit-  
4 ted for permanent residence pursuant to the Cuban Ad-  
5 justment Act of 1966 (Public Law 89–732).

6 **SEC. 3412. ASYLUM CLOCK.**

7 Section 208(d)(2) (8 U.S.C. 1158(d)(2)) is amended  
8 by striking “is not entitled to employment authorization”  
9 and all that follows through “prior to 180 days after” and  
10 inserting “shall be provided employment authorization  
11 180 days after”.

12 **Subtitle E—Shortage of Immigra-**  
13 **tion Court Resources for Re-**  
14 **moval Proceedings**

15 **SEC. 3501. SHORTAGE OF IMMIGRATION COURT PER-**  
16 **SONNEL FOR REMOVAL PROCEEDINGS.**

17 (a) IMMIGRATION COURT JUDGES.—The Attorney  
18 General shall increase the total number of immigration  
19 judges to adjudicate current pending cases and efficiently  
20 process future cases by at least—

- 21 (1) 75 in fiscal year 2014;  
22 (2) 75 in fiscal year 2015; and  
23 (3) 75 in fiscal year 2016.

24 (b) NECESSARY SUPPORT STAFF FOR IMMIGRATION  
25 COURT JUDGES.—The Attorney General shall address the

1 shortage of support staff for immigration judges by ensur-  
2 ing that each immigration judge has the assistance of the  
3 necessary support staff, including the equivalent of 1 staff  
4 attorney or law clerk and 1 legal assistant.

5 (c) ANNUAL INCREASES IN BOARD OF IMMIGRATION  
6 APPEALS PERSONNEL.—The Attorney General shall in-  
7 crease the number of Board of Immigration Appeals staff  
8 attorneys (including the necessary additional support  
9 staff) to efficiently process cases by at least—

- 10 (1) 30 in fiscal year 2014;  
11 (2) 30 in fiscal year 2015; and  
12 (3) 30 in fiscal year 2016.

13 (d) FUNDING.—There shall be appropriated, from  
14 the Comprehensive Immigration Reform Trust Fund es-  
15 tablished under section 6(a)(1), such sums as may be nec-  
16 essary to carry out this section.

17 **SEC. 3502. IMPROVING IMMIGRATION COURT EFFICIENCY**  
18 **AND REDUCING COSTS BY INCREASING AC-**  
19 **CESS TO LEGAL INFORMATION.**

20 (a) CLARIFICATION REGARDING THE AUTHORITY OF  
21 THE ATTORNEY GENERAL TO APPOINT COUNSEL TO  
22 ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 (8  
23 U.S.C. 1362) is amended—

- 24 (1) by inserting “(a)” before “In any”;

1           (2) by striking “(at no expense to the Govern-  
2       ment)”;

3           (3) by striking “he shall” and inserting “the  
4       person shall”; and

5           (4) by adding at the end the following:

6       “(b) The Government is not required to provide coun-  
7       sel to aliens under subsection (a). However, the Attorney  
8       General may, in the Attorney General’s sole and  
9       unreviewable discretion, appoint or provide counsel to  
10      aliens in immigration proceedings conducted under section  
11      240 of this Act.”.

12       (b) APPOINTMENT OF COUNSEL IN CERTAIN CASES;  
13      RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL  
14      PROCEEDINGS.—Section 240(b) (8 U.S.C. 1229a(b)) is  
15      amended—

16           (1) in paragraph (4)—

17               (A) by redesignating subparagraphs (B)  
18               and (C) as subparagraphs (C) and (D), respec-  
19               tively;

20               (B) in subparagraph (A), by striking “, at  
21               no expense to the Government,”;

22               (C) by inserting after subparagraph (A)  
23               the following new subparagraph:

24               “(B) the alien shall, at the beginning of  
25               the proceedings or at a reasonable time there-

1           after, automatically receive a complete copy of  
2           all relevant documents in the possession of the  
3           Department of Homeland Security, including all  
4           documents (other than documents protected  
5           from disclosure by privilege, including national  
6           security information referenced in subparagraph  
7           (C), law enforcement sensitive information, and  
8           information prohibited from disclosure pursuant  
9           to any other provision of law) contained in the  
10          file maintained by the Government that in-  
11          cludes information with respect to all trans-  
12          actions involving the alien during the immigra-  
13          tion process (commonly referred to as an ‘A-  
14          file’), and all documents pertaining to the alien  
15          that the Department of Homeland Security has  
16          obtained or received from other government  
17          agencies, unless the alien waives the right to re-  
18          ceive such documents by executing a knowing  
19          and voluntary waiver in a language that he or  
20          she understands fluently,”; and

21                 (D) by adding at the end the following:

22          “The Government is not required to provide counsel  
23          to aliens under this paragraph. However, the Attor-  
24          ney General may, in the Attorney General’s sole and  
25          unreviewable discretion, appoint or provide counsel

1 at government expense to aliens in immigration pro-  
2 ceedings.”; and

3 (2) by adding at the end the following new  
4 paragraph:

5 “(8) FAILURE TO PROVIDE ALIEN REQUIRED  
6 DOCUMENTS.—In the absence of a waiver under sub-  
7 paragraph (B) of paragraph (4), a removal pro-  
8 ceeding may not proceed until the alien has received  
9 the documents as required under such subpara-  
10 graph.”.

11 (c) APPOINTMENT OF COUNSEL FOR UNACCOM-  
12 PANIED ALIEN CHILDREN AND ALIENS WITH A SERIOUS  
13 MENTAL DISABILITY.—Section 292 (8 U.S.C. 1362), as  
14 amended by subsection (a), is further amended by adding  
15 at the end the following:

16 “(c) Notwithstanding subsection (b), the Attorney  
17 General shall appoint counsel, at the expense of the Gov-  
18 ernment if necessary, to represent an alien in a removal  
19 proceeding who has been determined by the Secretary to  
20 be an unaccompanied alien child, is incompetent to rep-  
21 resent himself or herself due to a serious mental disability  
22 that would be included in section 3(1) of the Americans  
23 with Disabilities Act of 1990 (42 U.S.C. 12102(1)), or is  
24 considered particularly vulnerable when compared to other  
25 aliens in removal proceedings, such that the appointment

1 of counsel is necessary to help ensure fair resolution and  
2 efficient adjudication of the proceedings.”.

3 (d) FUNDING.—There shall be appropriated, from  
4 the Comprehensive Immigration Reform Trust Fund es-  
5 tablished under section 6(a)(1), such sums as may be nec-  
6 essary to carry out this section and the amendments made  
7 by this section.

8 **SEC. 3503. OFFICE OF LEGAL ACCESS PROGRAMS.**

9 (a) ESTABLISHMENT OF OFFICE OF LEGAL ACCESS  
10 PROGRAMS.—The Attorney General shall maintain, within  
11 the Executive Office for Immigration Review, an Office  
12 of Legal Access Programs to develop and administer a sys-  
13 tem of legal orientation programs to make immigration  
14 proceedings more efficient and cost effective by educating  
15 aliens regarding administrative procedures and legal  
16 rights under United States immigration law and to estab-  
17 lish other programs to assist in providing aliens access to  
18 legal information.

19 (b) LEGAL ORIENTATION PROGRAMS.—The legal ori-  
20 entation programs—

21 (1) shall provide programs to assist detained  
22 aliens in making informed and timely decisions re-  
23 garding their removal and eligibility for relief from  
24 removal in order to increase efficiency and reduce  
25 costs in immigration proceedings and Federal cus-

1        today processes and to improve access to counsel and  
2        other legal services;

3            (2) may provide services to detained aliens in  
4        immigration proceedings under sections 235, 238,  
5        240, and 241(a)(5) of the Immigration and Nation-  
6        ality Act (8 U.S.C. 1225, 1228, 1229a, and  
7        1231(a)(5)) and to other aliens in immigration and  
8        asylum proceedings under sections 235, 238, and  
9        240 of the Immigration and Nationality Act (8  
10       U.S.C. 1225, 1228, and 1229a); and

11           (3) shall identify unaccompanied alien children,  
12        aliens with a serious mental disability, and other  
13        particularly vulnerable aliens for consideration by  
14        the Attorney General pursuant to section 292(c) of  
15        the Immigration and Nationality Act, as added by  
16        section 3502(c).

17        (c) PROCEDURES.—The Secretary, in consultation  
18        with the Attorney General, shall establish procedures that  
19        ensure that legal orientation programs are available for  
20        all detained aliens within 5 days of arrival into custody  
21        and to inform such aliens of the basic procedures of immi-  
22        gration hearings, their rights relating to those hearings  
23        under the immigration laws, information that may deter  
24        such aliens from filing frivolous legal claims, and any  
25        other information deemed appropriate by the Attorney



1 General, such as a contact list of potential legal resources  
2 and providers.

3 (d) RULE OF CONSTRUCTION.—Nothing in this sub-  
4 section shall be construed to create any substantive or pro-  
5 cedural right or benefit that is legally enforceable by any  
6 party against the United States or its agencies or officers  
7 or any other person.

8 (e) FUNDING.—There shall be appropriated, from the  
9 Comprehensive Immigration Reform Trust Fund estab-  
10 lished under section 6(a)(1), such sums as may be nec-  
11 essary to carry out this section.

12 **SEC. 3504. CODIFYING BOARD OF IMMIGRATION APPEALS.**

13 (a) DEFINITION OF BOARD MEMBER.—Section  
14 101(a) (8 U.S.C. 1101(a)) is amended by adding at the  
15 end the following:

16 “(53) The term ‘Board Member’ means an at-  
17 torney whom the Attorney General appoints to serve  
18 on the Board of Immigration Appeals within the Ex-  
19 ecutive Office of Immigration Review, and is quali-  
20 fied to review decisions of immigration judges and  
21 other matters within the jurisdiction of the Board of  
22 Immigration Appeals.”.

23 (b) BOARD OF IMMIGRATION APPEALS.—Section  
24 240(a)(1) (8 U.S.C. 1229a(a)(1)) is amended by adding  
25 at the end the following: “The Board of Immigration Ap-

1 peals and its Board Members shall review decisions of im-  
2 migration judges under this section.”.

3 (c) APPEALS.—Section 240(b)(4) (8 U.S.C.  
4 1229a(b)(4)), as amended by section 3502(b), is further  
5 amended—

6 (1) in subparagraph (B), by striking “, and”  
7 and inserting a semicolon;

8 (2) in subparagraph (C), by striking the period  
9 and inserting “; and”; and

10 (3) by inserting after subparagraph (C) the fol-  
11 lowing:

12 “(D) the alien or the Department of  
13 Homeland Security may appeal the immigration  
14 judge’s decision to a 3-judge panel of the Board  
15 of Immigration Appeals.”.

16 (d) DECISION AND BURDEN OF PROOF.—Section  
17 240(c)(1)(A) (8 U.S.C. 1229a(c)(1)(A)) is amended to  
18 read as follows:

19 “(A) IN GENERAL.—At the conclusion of  
20 the proceeding, the immigration judge shall de-  
21 cide whether an alien is removable from the  
22 United States. The determination of the immi-  
23 gration judge shall be based only on the evi-  
24 dence produced at the hearing. On appeal, the  
25 Board of Immigration Appeals shall issue a

1           written opinion. The opinion shall address all  
2           dispositive arguments raised by the parties. The  
3           panel may incorporate by reference the opinion  
4           of the immigration judge whose decision is  
5           being reviewed, provided that the panel also ad-  
6           dresses any arguments made by the nonpre-  
7           vailing party regarding purported errors of law,  
8           fact, or discretion.”.

9   **SEC. 3505. IMPROVED TRAINING FOR IMMIGRATION**  
10           **JUDGES AND BOARD MEMBERS.**

11           (a) IN GENERAL.—Section 240 (8 U.S.C. 1229a) is  
12   amended by adding at the end the following:

13           “(f) IMPROVED TRAINING.—

14                   “(1) IMPROVED TRAINING FOR IMMIGRATION  
15   JUDGES AND BOARD MEMBERS.—

16                           “(A) IN GENERAL.—In consultation with  
17           the Attorney General and the Director of the  
18           Federal Judicial Center, the Director of the Ex-  
19           ecutive Office for Immigration Review shall re-  
20           view and modify, as appropriate, training pro-  
21           grams for immigration judges and Board Mem-  
22           bers.

23                           “(B) ELEMENTS OF REVIEW.—Each such  
24   review shall study—

1                   “(i) the expansion of the training pro-  
2                   gram for new immigration judges and  
3                   Board Members;

4                   “(ii) continuing education regarding  
5                   current developments in the field of immi-  
6                   gration law; and

7                   “(iii) methods to ensure that immigra-  
8                   tion judges are trained on properly crafting  
9                   and dictating decisions.

10                  “(2) IMPROVED TRAINING AND GUIDANCE FOR  
11                  STAFF.—The Director of the Executive Office for  
12                  Immigration Review shall—

13                       “(A) modify guidance and training regard-  
14                       ing screening standards and standards of re-  
15                       view; and

16                       “(B) ensure that Board Members provide  
17                       staff attorneys with appropriate guidance in  
18                       drafting decisions in individual cases, consistent  
19                       with the policies and directives of the Director  
20                       of the Executive Office for Immigration Review  
21                       and the Chairman of the Board of Immigration  
22                       Appeals.”.

23                  (b) FUNDING.—There shall be appropriated, from the  
24                  Comprehensive Immigration Reform Trust Fund estab-  
25                  lished under section 6(a)(1), such sums as may be nec-

1    essary to carry out this section and the amendment made  
2    by this section.

3    **SEC. 3506. IMPROVED RESOURCES AND TECHNOLOGY FOR**  
4                   **IMMIGRATION COURTS AND BOARD OF IMMI-**  
5                   **GRATION APPEALS.**

6           (a) **IMPROVED ON-BENCH REFERENCE MATERIALS**  
7    **AND DECISION TEMPLATES.**—The Director of the Execu-  
8    tive Office for Immigration Review shall ensure that immi-  
9    gration judges are provided with updated reference mate-  
10   rials and standard decision templates that conform to the  
11   law of the circuits in which they sit.

12          (b) **PRACTICE MANUAL.**—The Director of the Execu-  
13   tive Office for Immigration Review shall produce a prac-  
14   tice manual describing best practices for the immigration  
15   courts and shall make such manual available electronically  
16   to counsel and litigants who appear before the immigra-  
17   tion courts.

18          (c) **RECORDING SYSTEM AND OTHER TECH-**  
19   **NOLOGIES.**—

20           (1) **PLAN REQUIRED.**—The Director of the Ex-  
21   ecutive Office for Immigration Review shall provide  
22   the Attorney General with a plan and a schedule to  
23   replace the immigration courts' tape recording sys-  
24   tem with a digital recording system that is compat-

1       ible with the information management systems of  
2       the Executive Office for Immigration Review.

3           (2) AUDIO RECORDING SYSTEM.—Consistent  
4       with the plan described in paragraph (1), the Direc-  
5       tor shall pilot a digital audio recording system not  
6       later than 1 year after the enactment of this Act,  
7       and shall begin nationwide implementation of that  
8       system as soon as practicable.

9       (d) IMPROVED TRANSCRIPTION SERVICES.—Not  
10      later than 1 year after the enactment of this Act, the Di-  
11      rector of the Executive Office for Immigration Review  
12      shall report to the Attorney General on the current tran-  
13      scription services utilized by the Office and recommend  
14      improvements to this system regarding quality and timeli-  
15      ness of transcription.

16      (e) IMPROVED INTERPRETER SELECTION.—Not later  
17      than 1 year after the enactment of this Act, the Director  
18      of the Executive Office for Immigration Review shall re-  
19      port to the Attorney General on the current interpreter  
20      selection process utilized by the Office and recommend im-  
21      provements to this process regarding screening, hiring,  
22      certification, and evaluation of staff and contract inter-  
23      preters.

24      (f) FUNDING.—There shall be appropriated, from the  
25      Comprehensive Immigration Reform Trust Fund estab-

1 lished under section 6(a)(1), such sums as may be nec-  
2 essary to carry out this section.

3 **SEC. 3507. TRANSFER OF RESPONSIBILITY FOR TRAF-**  
4 **FICKING PROTECTIONS.**

5 (a) TRANSFER OF RESPONSIBILITY.—

6 (1) IN GENERAL.—All unexpended balances ap-  
7 propriated or otherwise available to the Department  
8 of Health and Human Services and its Office of Ref-  
9 ugee Resettlement in connection with the functions  
10 provided for in paragraphs (5) and (6) of section  
11 235(c) of the William Wilberforce Trafficking Vic-  
12 tims Protection Reauthorization Act of 2008 (8  
13 U.S.C. 1232(c)), shall, subject to section 202 of the  
14 Budget and Accounting Procedures Act of 1950, be  
15 transferred to the Department of Justice. Funds  
16 transferred pursuant to this paragraph shall remain  
17 available until expended and shall be used only for  
18 the purposes for which the funds were originally au-  
19 thorized and appropriated.

20 (2) CONTRACT AUTHORITY.—The Attorney  
21 General may award grants to, and enter into con-  
22 tracts to carry out the functions set forth in para-  
23 graphs (5) and (6) of Section 235(c) of the William  
24 Wilberforce Trafficking Victims Protection Reau-  
25 thorization Act of 2008.

1 (b) CONFORMING AMENDMENTS.—Section 235(c) of  
2 the William Wilberforce Trafficking Victims Protection  
3 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amend-  
4 ed—

5 (1) in paragraph (5)—

6 (A) by striking “Secretary of Health and  
7 Human Services” each place it appears and in-  
8 serting “Attorney General”; and

9 (B) by striking the last sentence; and

10 (2) in paragraph (6)—

11 (A) by striking “Secretary of Health and  
12 Human Services” each place it appears and in-  
13 serting “Attorney General”;

14 (B) in subparagraphs (B)(ii), (D), and  
15 (F), by striking “Secretary” each place it ap-  
16 pears and inserting “Attorney General”; and

17 (C) in subparagraph (F), by striking “and  
18 Human Services”.

19 **Subtitle F—Prevention of Traf-**  
20 **ficking in Persons and Abuses**  
21 **Involving Workers Recruited**  
22 **Abroad**

23 **SEC. 3601. DEFINITIONS.**

24 (a) IN GENERAL.—Except as otherwise provided by  
25 this subtitle, the terms used in this subtitle shall have the



1 same meanings, respectively, as are given those terms in  
2 section 3 of the Fair Labor Standards Act of 1938 (29  
3 U.S.C. 203).

4 (b) OTHER DEFINITIONS.—

5 (1) FOREIGN LABOR CONTRACTOR.—The term  
6 “foreign labor contractor” means any person who  
7 performs foreign labor contracting activity, including  
8 any person who performs foreign labor contracting  
9 activity wholly outside of the United States, except  
10 that the term does not include any entity of the  
11 United States Government.

12 (2) FOREIGN LABOR CONTRACTING ACTIVITY.—  
13 The term “foreign labor contracting activity” means  
14 recruiting, soliciting, or related activities with re-  
15 spect to an individual who resides outside of the  
16 United States in furtherance of employment in the  
17 United States, including when such activity occurs  
18 wholly outside of the United States.

19 (3) PERSON.—The term “person” means any  
20 natural person or any corporation, company, firm,  
21 partnership, joint stock company or association or  
22 other organization or entity (whether organized  
23 under law or not), including municipal corporations.

24 (4) WORKER.—The term “worker” means an  
25 individual who is the subject of foreign labor con-

1       tracting activity and does not include an exchange  
2       visitor (as defined in section 62.2 of title 22, Code  
3       of Federal Regulations, or any similar successor reg-  
4       ulation).

5   **SEC. 3602. DISCLOSURE.**

6       (a) REQUIREMENT FOR DISCLOSURE.—Any person  
7       who engages in foreign labor contracting activity shall as-  
8       certain and disclose in writing in English and in the pri-  
9       mary language of the worker at the time of the worker's  
10      recruitment, the following information:

11           (1) The identity and address of the employer  
12           and the identity and address of the person con-  
13           ducting the recruiting on behalf of the employer, in-  
14           cluding any subcontractor or agent involved in such  
15           recruiting.

16           (2) All assurances and terms and conditions of  
17           employment, from the prospective employer for  
18           whom the worker is being recruited, including the  
19           work hours, level of compensation to be paid, the  
20           place and period of employment, a description of the  
21           type and nature of employment activities, any  
22           withholdings or deductions from compensation and  
23           any penalties for terminating employment.

24           (3) A signed copy of the work contract between  
25           the worker and the employer.

1           (4) The type of visa under which the foreign  
2 worker is to be employed, the length of time for  
3 which the visa will be valid, the terms and conditions  
4 under which the visa may be renewed, and a clear  
5 statement of any expenses associated with securing  
6 or renewing the visa.

7           (5) An itemized list of any costs or expenses to  
8 be charged to the worker and any deductions to be  
9 taken from wages, including any costs for housing or  
10 accommodation, transportation to and from the  
11 worksite, meals, health insurance, workers' com-  
12 pensation, costs of benefits provided, medical exami-  
13 nations, healthcare, tools, or safety equipment costs.

14           (6) The existence of any labor organizing effort,  
15 strike, lockout, or other labor dispute at the place of  
16 employment.

17           (7) Whether and the extent to which workers  
18 will be compensated through workers' compensation,  
19 private insurance, or otherwise for injuries or death,  
20 including work-related injuries and death, during the  
21 period of employment and, if so, the name of the  
22 State workers' compensation insurance carrier or the  
23 name of the policyholder of the private insurance,  
24 the name and the telephone number of each person

1       who must be notified of an injury or death, and the  
2       time period within which such notice must be given.

3           (8) A statement, in a form specified by the Sec-  
4       retary—

5           (A) stating that—

6               (i) no foreign labor contractor, agent,  
7               or employee of a foreign labor contractor,  
8               may lawfully assess any fee (including visa  
9               fees, processing fees, transportation fees,  
10              legal expenses, placement fees, and other  
11              costs) to a worker for any foreign labor  
12              contracting activity; and

13              (ii) the employer may bear such costs  
14              or fees for the foreign labor contractor, but  
15              that these fees cannot be passed along to  
16              the worker;

17           (B) explaining that—

18               (i) no additional significant require-  
19               ments or changes may be made to the  
20               original contract signed by the worker  
21               without at least 24 hours to consider such  
22               changes and the specific consent of the  
23               worker, obtained voluntarily and without  
24               threat of penalty; and

1 (ii) any significant changes made to  
2 the original contract that do not comply  
3 with clause (i) shall be a violation of this  
4 subtitle and be subject to the provisions of  
5 section 3610 of this Act; and

6 (C) describing the protections afforded the  
7 worker by this section and by section 202 of the  
8 William Wilberforce Trafficking Victims Protec-  
9 tion Reauthorization Act of 2008 (8 U.S.C.  
10 1375b) and any applicable visa program, in-  
11 cluding—

12 (i) relevant information about the pro-  
13 cedure for filing a complaint provided for  
14 in section 3610; and

15 (ii) the telephone number for the na-  
16 tional human trafficking resource center  
17 hotline number.

18 (9) Any education or training to be provided or  
19 required, including—

20 (A) the nature, timing, and cost of such  
21 training;

22 (B) the person who will pay such costs;

23 (C) whether the training is a condition of  
24 employment, continued employment, or future  
25 employment; and

1 (D) whether the worker will be paid or re-  
2 munerated during the training period, including  
3 the rate of pay.

4 (b) RELATIONSHIP TO LABOR AND EMPLOYMENT

5 LAWS.—Nothing in the disclosure required by subsection

6 (a) shall constitute a legal conclusion as to the worker's  
7 status or rights under the labor and employment laws.

8 (c) PROHIBITION ON FALSE AND MISLEADING IN-

9 FORMATION.—No foreign labor contractor or employer  
10 who engages in any foreign labor contracting activity shall  
11 knowingly provide materially false or misleading informa-  
12 tion to any worker concerning any matter required to be  
13 disclosed under subsection (a). The disclosure required by  
14 this section is a document concerning the proper adminis-  
15 tration of a matter within the jurisdiction of a department  
16 or agency of the United States for the purposes of section  
17 1519 of title 18, United States Code.

18 **SEC. 3603. PROHIBITION ON DISCRIMINATION.**

19 (a) IN GENERAL.—It shall be unlawful for an em-  
20 ployer or a foreign labor contractor to fail or refuse to  
21 hire, discharge, intimidate, threaten, restrain, coerce, or  
22 blacklist any individual or otherwise discriminate against  
23 an individual with respect to compensation, terms, condi-  
24 tions, or privileges of employment, because of such individ-

1   ual's race, color, creed, sex, national origin, religion, age,  
2   or disability.

3       (b) DETERMINATIONS OF DISCRIMINATION.—For the  
4   purposes of determining the existence of unlawful dis-  
5   crimination under subsection (a)—

6           (1) in the case of a claim of discrimination  
7       based on race, color, creed, sex, national origin, or  
8       religion, the same legal standards shall apply as are  
9       applicable under title VII of the Civil Rights Act of  
10      1964 (42 U.S.C. 2000e et seq.);

11          (2) in the case of a claim of discrimination  
12      based on unlawful discrimination based on age, the  
13      same legal standards shall apply as are applicable  
14      under the Age Discrimination in Employment Act of  
15      1967 (29 U.S.C. 621 et seq.); and

16          (3) in the case of a claim of discrimination  
17      based on disability, the same legal standards shall  
18      apply as are applicable under title I of the Ameri-  
19      cans With Disabilities Act of 1990 (42 U.S.C.  
20      12111 et seq.).

21   **SEC. 3604. RECRUITMENT FEES.**

22      No employer, foreign labor contractor, or agent or  
23   employee of a foreign labor contractor, shall assess any  
24   fee (including visa fees, processing fees, transportation

1 fees, legal expenses, placement fees, and other costs) to  
2 a worker for any foreign labor contracting activity.

3 **SEC. 3605. REGISTRATION.**

4 (a) REQUIREMENT TO REGISTER.—

5 (1) IN GENERAL.—Subject to paragraph (2),  
6 prior to engaging in any foreign labor contracting  
7 activity, any person who is a foreign labor contractor  
8 or who, for any money or other valuable consider-  
9 ation paid or promised to be paid, performs a for-  
10 eign labor contracting activity on behalf of a foreign  
11 labor contractor, shall obtain a certificate of reg-  
12 istration from the Secretary of Labor pursuant to  
13 regulations promulgated by the Secretary under sub-  
14 section (c).

15 (2) EXCEPTION FOR CERTAIN EMPLOYERS.—An  
16 employer, or employee of an employer, who engages  
17 in foreign labor contracting activity solely to find  
18 employees for that employer's own use, and without  
19 the participation of any other foreign labor con-  
20 tractor, shall not be required to register under this  
21 section.

22 (b) NOTIFICATION.—

23 (1) ANNUAL EMPLOYER NOTIFICATION.—Each  
24 employer shall notify the Secretary, not less fre-  
25 quently than once every year, of the identity of any



1 foreign labor contractor involved in any foreign labor  
2 contracting activity for, or on behalf of, the em-  
3 ployer, including at a minimum, the name and ad-  
4 dress of the foreign labor contractor, a description of  
5 the services for which the foreign labor contractor is  
6 being used, whether the foreign labor contractor is  
7 to receive any economic compensation for the serv-  
8 ices, and, if so, the identity of the person or entity  
9 who is paying for the services.

10 (2) ANNUAL FOREIGN LABOR CONTRACTOR NO-  
11 TIFICATION.—Each foreign labor contractor shall  
12 notify the Secretary, not less frequently than once  
13 every year, of the identity of any subcontractee,  
14 agent, or foreign labor contractor employee involved  
15 in any foreign labor contracting activity for, or on  
16 behalf of, the foreign labor contractor.

17 (3) NONCOMPLIANCE NOTIFICATION.—An em-  
18 ployer shall notify the Secretary of the identity of a  
19 foreign labor contractor whose activities do not com-  
20 ply with this subtitle.

21 (4) AGREEMENT.—Not later than 7 days after  
22 receiving a request from the Secretary, an employer  
23 shall provide the Secretary with the identity of any  
24 foreign labor contractor with which the employer has  
25 a contract or other agreement.

1       (c) REGULATIONS.—Not later than 180 days after  
2 the date of the enactment of this Act, the Secretary shall  
3 promulgate regulations to establish an efficient electronic  
4 process for the timely investigation and approval of an ap-  
5 plication for a certificate of registration of foreign labor  
6 contractors, including—

7           (1) a declaration, subscribed and sworn to by  
8 the applicant, stating the applicant's permanent  
9 place of residence, the foreign labor contracting ac-  
10 tivities for which the certificate is requested, and  
11 such other relevant information as the Secretary  
12 may require;

13           (2) a set of fingerprints of the applicant;

14           (3) an expeditious means to update registra-  
15 tions and renew certificates;

16           (4) providing for the consent of any foreign  
17 labor recruiter to the designation by a court of the  
18 Secretary as an agent available to accept service of  
19 summons in any action against the applicant, if the  
20 applicant has left the jurisdiction in which the action  
21 is commenced, otherwise has become unavailable to  
22 accept service, or is subject to personal jurisdiction  
23 in no State;

24           (5) providing for the consent of any foreign  
25 labor recruiter to jurisdiction in the Department or

1 any Federal or State court in the United States for  
2 any action brought by any aggrieved individual or  
3 worker;

4 (6) providing for cooperation in any investiga-  
5 tion by the Secretary or other appropriate authori-  
6 ties;

7 (7) providing for consent to the forfeiture of the  
8 bond for failure to cooperate with these provisions;

9 (8) providing for consent to be liable for viola-  
10 tions of this subtitle by any agents or subcontractees  
11 of any level in relation to the foreign labor con-  
12 tracting activity of the agent or subcontractee to the  
13 same extent as if the foreign labor contractor had  
14 committed the violation; and

15 (9) providing for consultation with other appro-  
16 priate Federal agencies to determine whether any  
17 reason exists to deny registration to a foreign labor  
18 contractor.

19 (d) TERM OF REGISTRATION.—Unless suspended or  
20 revoked, a certificate under this section shall be valid for  
21 2 years.

22 (e) APPLICATION FEE.—

23 (1) REQUIREMENT FOR FEE.—In addition to  
24 any other fees authorized by law, the Secretary shall  
25 impose a fee, to be deposited in the general fund of

1 the Treasury, on a foreign labor contractor that sub-  
2 mits an application for a certificate of registration  
3 under this section.

4 (2) AMOUNT OF FEE.—The amount of the fee  
5 required by paragraph (1) shall be set at a level that  
6 the Secretary determines sufficient to cover the full  
7 costs of carrying out foreign labor contract registra-  
8 tion activities under this subtitle, including worker  
9 education and any additional costs associated with  
10 the administration of the fees collected.

11 (f) REFUSAL TO ISSUE; REVOCATION.—In accord-  
12 ance with regulations promulgated by the Secretary, the  
13 Secretary shall refuse to issue or renew, or shall revoke  
14 and debar from eligibility to obtain a certificate of reg-  
15 istration for a period of not greater than 5 years, after  
16 notice and an opportunity for a hearing, a certificate of  
17 registration under this section if—

18 (1) the applicant for, or holder of, the certifi-  
19 cation has knowingly made a material misrepresen-  
20 tation in the application for such certificate;

21 (2) the applicant for, or holder of, the certifi-  
22 cation is not the real party in interest in the applica-  
23 tion or certificate of registration and the real party  
24 in interest—

1 (A) is a person who has been refused  
2 issuance or renewal of a certificate;

3 (B) has had a certificate revoked; or

4 (C) does not qualify for a certificate under  
5 this section;

6 (3) the applicant for, or holder of, the certifi-  
7 cation has been convicted within the preceding 5  
8 years of—

9 (A) any felony under State or Federal law  
10 or crime involving robbery, bribery, extortion,  
11 embezzlement, grand larceny, burglary, arson,  
12 violation of narcotics laws, murder, rape, as-  
13 sault with intent to kill, assault which inflicts  
14 grievous bodily injury, prostitution, peonage, or  
15 smuggling or harboring individuals who have  
16 entered the United States illegally; or

17 (B) any crime relating to gambling, or to  
18 the sale, distribution or possession of alcoholic  
19 beverages, in connection with or incident to any  
20 labor contracting activities; or

21 (4) the applicant for, or holder of, the certifi-  
22 cation has materially failed to comply with this sec-  
23 tion.

24 (g) RE-REGISTRATION OF VIOLATORS.—The Sec-  
25 retary shall establish a procedure by which a foreign labor

1 contractor that has had its registration revoked under sub-  
2 section (f) may seek to re-register under this subsection  
3 by demonstrating to the Secretary's satisfaction that the  
4 foreign labor contractor has not violated this subtitle in  
5 the previous 5 years and that the foreign labor contractor  
6 has taken sufficient steps to prevent future violations of  
7 this subtitle.

8 **SEC. 3606. BONDING REQUIREMENT.**

9 (a) IN GENERAL.—The Secretary shall require a for-  
10 eign labor contractor to post a bond in an amount suffi-  
11 cient to ensure the ability of the foreign labor contractor  
12 to discharge its responsibilities and to ensure protection  
13 of workers, including wages.

14 (b) REGULATIONS.—The Secretary, by regulation,  
15 shall establish the conditions under which the bond  
16 amount is determined, paid, and forfeited.

17 (c) RELATIONSHIP TO OTHER REMEDIES.—The bond  
18 requirements and forfeiture of the bond under this section  
19 shall be in addition to other remedies under 3610 or any  
20 other law.

21 **SEC. 3607. MAINTENANCE OF LISTS.**

22 (a) IN GENERAL.—The Secretary shall maintain—

23 (1) a list of all foreign labor contractors reg-  
24 istered under this subsection, including—

1 (A) the countries from which the contrac-  
2 tors recruit;

3 (B) the employers for whom the contrac-  
4 tors recruit;

5 (C) the visa categories and occupations for  
6 which the contractors recruit; and

7 (D) the States where recruited workers are  
8 employed; and

9 (2) a list of all foreign labor contractors whose  
10 certificate of registration the Secretary has revoked.

11 (b) UPDATES; AVAILABILITY.—The Secretary shall—

12 (1) update the lists required by subsection (a)  
13 on an ongoing basis, not less frequently than every  
14 6 months; and

15 (2) make such lists publicly available, including  
16 through continuous publication on Internet websites  
17 and in written form at and on the websites of  
18 United States embassies in the official language of  
19 that country.

20 (c) INTER-AGENCY AVAILABILITY.—The Secretary  
21 shall share the information described in subsection (a)  
22 with the Secretary of State.

1 **SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-**  
2 **TIONALITY ACT.**

3 Section 214 (8 U.S.C. 1184) is amended by adding  
4 at the end the following:

5 “(s) A visa shall not be issued under the subpara-  
6 graph (A)(iii), (B)(i) (but only for domestic servants de-  
7 scribed in clause (i) or (ii) of section 274a.12(c)(17) of  
8 title 8, Code of Federal Regulations (as in effect on De-  
9 cember 4, 2007)), (G)(v), (H), (J), (L), (Q), (R), or (W)  
10 of section 101(a)(15) until the consular officer—

11 “(1) has provided to and reviewed with the ap-  
12 plicant, in the applicant’s language (or a language  
13 the applicant understands), a copy of the informa-  
14 tion and resources pamphlet required by section 202  
15 of the William Wilberforce Trafficking Victims Pro-  
16 tection Reauthorization Act of 2008 (8 U.S.C.  
17 1375b); and

18 “(2) has reviewed and made a part of the visa  
19 file the foreign labor recruiter disclosures required  
20 by section 3602 of the Border Security, Economic  
21 Opportunity, and Immigration Modernization Act,  
22 including whether the foreign labor recruiter is reg-  
23 istered pursuant to that section.”.

24 **SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.**

25 (a) IN GENERAL.—The Secretary of State shall en-  
26 sure that each United States diplomatic mission has a per-



1 son who shall be responsible for receiving information  
2 from any worker who has been subject to violations of this  
3 subtitle.

4 (b) PROVISION OF INFORMATION.—The responsible  
5 person referred to in subsection (a) shall ensure that the  
6 information received is provided to the Department of Jus-  
7 tice, the Department of Labor, or any other relevant Fed-  
8 eral agency.

9 (c) MECHANISMS.—The Attorney General and the  
10 Secretary shall ensure that there is a mechanism for any  
11 actions that need to be taken in response to information  
12 received under subsection (a).

13 (d) ASSISTANCE FROM FOREIGN GOVERNMENT.—  
14 The person designated for receiving information pursuant  
15 to subsection (a) is strongly encouraged to coordinate with  
16 governments and civil society organizations in the coun-  
17 tries of origin to ensure the worker receives additional sup-  
18 port.

19 (e) MAINTENANCE AND AVAILABILITY OF INFORMA-  
20 TION.—The Secretary of State shall ensure that con-  
21 sulates maintain information regarding the identities of  
22 foreign labor contractors and the employers to whom the  
23 foreign labor contractors supply workers. The Secretary  
24 of State shall make such information publicly available in  
25 written form and online, including on the websites of

1 United States embassies in the official language of that  
2 country.

3 (f) ANNUAL PUBLIC DISCLOSE.—The Secretary of  
4 State shall make publicly available online, on an annual  
5 basis, data disclosing the gender, country of origin and  
6 state, if available, date of birth, wage, level of training,  
7 and occupation category, disaggregated by job and by visa  
8 category and subcategory.

9 **SEC. 3610. ENFORCEMENT PROVISIONS.**

10 (a) COMPLAINTS AND INVESTIGATIONS.—The Sec-  
11 retary—

12 (1) shall establish a process for the receipt, in-  
13 vestigation, and disposition of complaints filed by  
14 any person, including complaints respecting a for-  
15 eign labor contractor's compliance with this subtitle;  
16 and

17 (2) either pursuant to the process required by  
18 paragraph (1) or otherwise, may investigate employ-  
19 ers or foreign labor contractors, including actions oc-  
20 ccurring in a foreign country, as necessary to deter-  
21 mine compliance with this subtitle.

22 (b) ENFORCEMENT.—

23 (1) IN GENERAL.—A worker who believes that  
24 he or she has suffered a violation of this subtitle  
25 may seek relief from an employer by—

1 (A) filing a complaint with the Secretary  
2 within 3 years after the date on which the viola-  
3 tion occurred or date on which the employee be-  
4 came aware of the violation; or

5 (B) if the Secretary has not issued a final  
6 decision within 120 days of the filing of the  
7 complaint and there is no showing that such  
8 delay is due to the bad faith of the claimant,  
9 bringing an action at law or equity for de novo  
10 review in the appropriate district court of the  
11 United States, which shall have jurisdiction  
12 over such an action without regard to the  
13 amount in controversy.

14 (2) PROCEDURE.—

15 (A) IN GENERAL.—Unless otherwise pro-  
16 vided herein, a complaint under paragraph  
17 (1)(A) shall be governed under the rules and  
18 procedures set forth in paragraphs (1) and  
19 (2)(A) of section 42121(b) of title 49, United  
20 States Code.

21 (B) EXCEPTION.—Notification of a com-  
22 plaint under paragraph (1)(A) shall be made to  
23 each person or entity named in the complaint  
24 as a defendant and to the employer.

1 (C) STATUTE OF LIMITATIONS.—An action  
2 filed in a district court of the United States  
3 under paragraph (1)(B) shall be commenced  
4 not later than 180 days after the last day of the  
5 120-day period referred to in that paragraph.

6 (D) JURY TRIAL.—A party to an action  
7 brought under paragraph (1)(B) shall be enti-  
8 tled to trial by jury.

9 (c) ADMINISTRATIVE ENFORCEMENT.—

10 (1) IN GENERAL.—If the Secretary finds, after  
11 notice and an opportunity for a hearing, any foreign  
12 labor contractor or employer failed to comply with  
13 any of the requirements of this subtitle, the Sec-  
14 retary may impose the following against such con-  
15 tractor or employer—

16 (A) a fine in an amount not more than  
17 \$10,000 per violation; and

18 (B) upon the occasion of a third violation  
19 or a failure to comply with representations, a  
20 fine of not more than \$25,000 per violation.

21 (d) AUTHORITY TO ENSURE COMPLIANCE.—The  
22 Secretary is authorized to take other such actions, includ-  
23 ing issuing subpoenas and seeking appropriate injunctive  
24 relief and recovery of damages, as may be necessary to

1 assure compliance with the terms and conditions of this  
2 subtitle.

3 (e) BONDING.—Pursuant to the bonding requirement  
4 in section 3606, bond liquidation and forfeitures shall be  
5 in addition to other remedies under this section or any  
6 other law.

7 (f) CIVIL ACTION.—

8 (1) IN GENERAL.—The Secretary or any person  
9 aggrieved by a violation of this subtitle may bring a  
10 civil action against any foreign labor contractor that  
11 does not meet the requirements under subsection  
12 (g)(2) in any court of competent jurisdiction—

13 (A) to seek remedial action, including in-  
14 junctive relief;

15 (B) to recover damages on behalf of any  
16 worker harmed by a violation of this subsection;  
17 and

18 (C) to ensure compliance with require-  
19 ments of this section.

20 (2) ACTIONS BY THE SECRETARY OF HOME-  
21 LAND SECURITY.—

22 (A) SUMS RECOVERED.—Any sums recov-  
23 ered by the Secretary on behalf of a worker  
24 under paragraph (1) or through liquidation of  
25 the bond held pursuant to section 3606 shall be

1           held in a special deposit account and shall be  
2           paid, on order of the Secretary, directly to each  
3           worker affected. Any such sums not paid to a  
4           worker because of inability to do so within a pe-  
5           riod of 5 years shall be credited as an offsetting  
6           collection to the appropriations account of the  
7           Secretary for expenses for the administration of  
8           this section and shall remain available to the  
9           Secretary until expended or may be used for en-  
10          forcement of the laws within the jurisdiction of  
11          the wage and hour division or may be trans-  
12          ferred to the Secretary of Health and Human  
13          Services for the purpose of providing support to  
14          programs that provide assistance to victims of  
15          trafficking in persons or other exploited per-  
16          sons. The Secretary shall work with any attor-  
17          ney or organization representing workers to lo-  
18          cate workers owed sums under this section.

19                (B) REPRESENTATION.—Except as pro-  
20          vided in section 518(a) of title 28, United  
21          States Code, the Attorney General may appear  
22          for and represent the Secretary in any civil liti-  
23          gation brought under this paragraph. All such  
24          litigation shall be subject to the direction and  
25          control of the Attorney General.

1           (3) ACTIONS BY INDIVIDUALS.—

2           (A) AWARD.—If the court finds in a civil  
3           action filed by an individual under this section  
4           that the defendant has violated any provision of  
5           this subtitle (or any regulation issued pursuant  
6           to this subtitle), the court may award—

7                   (i) damages, up to and including an  
8                   amount equal to the amount of actual  
9                   damages, and statutory damages of up to  
10                  \$1,000 per plaintiff per violation, or other  
11                  equitable relief, except that with respect to  
12                  statutory damages—

13                   (I) multiple infractions of a sin-  
14                   gle provision of this subtitle (or of a  
15                   regulation under this subtitle) shall  
16                   constitute only 1 violation for pur-  
17                   poses of section 3602(a) to determine  
18                   the amount of statutory damages due  
19                   a plaintiff; and

20                   (II) if such complaint is certified  
21                   as a class action the court may  
22                   award—

23                           (aa) damages up to an  
24                           amount equal to the amount of  
25                           actual damages; and

1 (bb) statutory damages of  
2 not more than the lesser of up to  
3 \$1,000 per class member per vio-  
4 lation, or up to \$500,000; and  
5 other equitable relief;

6 (ii) reasonable attorneys' fees and  
7 costs; and

8 (iii) such other and further relief, in-  
9 cluding declaratory and injunctive relief, as  
10 necessary to effectuate the purposes of this  
11 subtitle.

12 (B) CRITERIA.—In determining the  
13 amount of statutory damages to be awarded  
14 under subparagraph (A), the court is author-  
15 ized to consider whether an attempt was made  
16 to resolve the issues in dispute before the resort  
17 to litigation.

18 (C) BOND.—To satisfy the damages, fees,  
19 and costs found owing under this clause, the  
20 Secretary shall release as much of the bond  
21 held pursuant to section 3606 as necessary.

22 (D) APPEAL.—Any civil action brought  
23 under this section shall be subject to appeal as  
24 provided in chapter 83 of title 28, United  
25 States Code (28 U.S.C. 1291 et seq.).



1                   (E) ACCESS TO LEGAL SERVICES COR-  
2                   PORATION.—Notwithstanding any other provi-  
3                   sion of law, the Legal Services Corporation and  
4                   recipients of its funding may provide legal as-  
5                   sistance on behalf of any alien with respect to  
6                   any provision of this subtitle.

7                   (g) AGENCY LIABILITY.—

8                   (1) IN GENERAL.—Beginning 180 days after  
9                   the Secretary has promulgated regulations pursuant  
10                  to section 3605(c), an employer who retains the  
11                  services of a foreign labor contractor shall only use  
12                  those foreign labor contractors who are registered  
13                  under section 3605.

14                  (2) SAFE HARBOR.—An employer shall not have  
15                  any liability under this section if the employer hires  
16                  workers referred by a foreign labor contractor that  
17                  has a valid registration with the Department pursu-  
18                  ant to section 3604.

19                  (3) LIABILITY FOR AGENTS.—Foreign labor  
20                  contractors shall be subject to the provisions of this  
21                  section for violations committed by the foreign labor  
22                  contractor's agents or subcontractees of any level in  
23                  relation to their foreign labor contracting activity to  
24                  the same extent as if the foreign labor contractor  
25                  had committed the violation.

1 (h) RETALIATION.—

2 (1) IN GENERAL.—No person shall intimidate,  
3 threaten, restrain, coerce, discharge, or in any other  
4 manner discriminate or retaliate against any worker  
5 or their family members (including a former em-  
6 ployee or an applicant for employment) because such  
7 worker disclosed information to any person that the  
8 worker reasonably believes evidences a violation of  
9 this section (or any rule or regulation pertaining to  
10 this section), including seeking legal assistance of  
11 counsel or cooperating with an investigation or other  
12 proceeding concerning compliance with this section  
13 (or any rule or regulation pertaining to this section).

14 (2) ENFORCEMENT.—An individual who is sub-  
15 ject to any conduct described in paragraph (1) may,  
16 in a civil action, recover appropriate relief, including  
17 reasonable attorneys' fees and costs, with respect to  
18 that violation. Any civil action under this subpara-  
19 graph shall be stayed during the pendency of any  
20 criminal action arising out of the violation.

21 (i) WAIVER OF RIGHTS.—Agreements by employees  
22 purporting to waive or to modify their rights under this  
23 subtitle shall be void as contrary to public policy.

24 (j) PRESENCE DURING PENDENCY OF ACTIONS.—

1           (1) IN GENERAL.—If other immigration relief is  
2       not available, the Attorney General and the Sec-  
3       retary shall grant advance parole to permit a non-  
4       immigrant to remain legally in the United States for  
5       time sufficient to fully and effectively participate in  
6       all legal proceedings related to any action taken pur-  
7       suant to this section.

8           (2) REGULATIONS.—Not later than 180 days  
9       after the date of the enactment of this Act, the Sec-  
10      retary shall promulgate regulations to carry out  
11      paragraph (1).

12 **SEC. 3611. DETECTING AND PREVENTING CHILD TRAF-**  
13 **FICKING.**

14       The Secretary shall mandate the live training of all  
15      U.S. Customs and Border Protection personnel who are  
16      likely to come into contact with unaccompanied alien chil-  
17      dren. Such training shall incorporate the services of child  
18      welfare professionals with expertise in culturally com-  
19      petent, trauma-centered, and developmentally appropriate  
20      interviewing skills to assist U.S. Customs and Border Pro-  
21      tection in the screening of children attempting to enter  
22      the United States.

23 **SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.**

24       (a) SHORT TITLE.—This section may be cited as the  
25      “Child Trafficking Victims Protection Act”.

1 (b) DEFINED TERM.—In this section, the term “un-  
2 accompanied alien children” has the meaning given such  
3 term in section 462 of the Homeland Security Act of 2002  
4 (6 U.S.C. 279).

5 (c) CARE AND TRANSPORTATION.—Notwithstanding  
6 any other provision of law, the Secretary shall ensure that  
7 all unaccompanied alien children who will undergo any im-  
8 migration proceedings before the Department or the Exec-  
9 utive Office for Immigration Review are duly transported  
10 and placed in the care and legal and physical custody of  
11 the Office of Refugee Resettlement not later than 72  
12 hours after their apprehension absent exceptional cir-  
13 cumstances, including a natural disaster or comparable  
14 emergency beyond the control of the Secretary or the Of-  
15 fice of Refugee Resettlement. The Secretary, to the extent  
16 practicable, shall ensure that female officers are continu-  
17 ously present during the transfer and transport of female  
18 detainees who are in the custody of the Department.

19 (d) QUALIFIED RESOURCES.—

20 (1) IN GENERAL.—The Secretary shall provide  
21 adequately trained and qualified staff and resources,  
22 including the accommodation of child welfare offi-  
23 cials, in accordance with subsection (e), at U.S. Cus-  
24 toms and Border Protection ports of entry and sta-  
25 tions.

1           (2) CHILD WELFARE PROFESSIONALS.—The  
2       Secretary of Health and Human Services, in con-  
3       sultation with the Secretary, shall hire, on a full- or  
4       part-time basis, child welfare professionals who will  
5       provide assistance, either in person or by other ap-  
6       propriate methods of communication, in not fewer  
7       than 7 of the U.S. Customs and Border Protection  
8       offices or stations with the largest number of unac-  
9       companied alien child apprehensions in the previous  
10      fiscal year.

11      (e) CHILD WELFARE PROFESSIONALS.—

12           (1) IN GENERAL.—The Secretary, in consulta-  
13      tion with the Secretary of Health and Human Serv-  
14      ices, shall ensure that qualified child welfare profes-  
15      sionals with expertise in culturally competent, trau-  
16      ma-centered, and developmentally appropriate inter-  
17      viewing skills are available at each major port of  
18      entry described in subsection (d).

19           (2) DUTIES.—Child welfare professionals de-  
20      scribed in paragraph (1) shall—

21           (A) develop guidelines for treatment of un-  
22      accompanied alien children in the custody of the  
23      Department;

24           (B) conduct screening of all unaccom-  
25      panied alien children in accordance with section

1           235(a)(4) of the William Wilberforce Traf-  
2           ficking Victims Protection Reauthorization Act  
3           of 2008 (8 U.S.C. 1232(a)(4));

4           (C) notify the Department and the Office  
5           of Refugee Resettlement of children that poten-  
6           tially meet the notification and transfer require-  
7           ments set forth in subsections (a) and (b) of  
8           section 235 of such Act (8 U.S.C. 1232);

9           (D) interview adult relatives accompanying  
10          unaccompanied alien children;

11          (E) provide an initial family relationship  
12          and trafficking assessment and recommenda-  
13          tions regarding unaccompanied alien children's  
14          initial placements to the Office of Refugee Re-  
15          settlement, which shall be conducted in accord-  
16          ance with the time frame set forth in sub-  
17          sections (a)(4) and (b)(3) of section 235 of  
18          such Act (8 U.S.C. 1232); and

19          (F) ensure that each unaccompanied alien  
20          child in the custody of U.S. Customs and Bor-  
21          der Protection—

22                 (i) receives emergency medical care  
23                 when necessary;

24                 (ii) receives emergency medical and  
25                 mental health care that complies with the

1 standards adopted pursuant to section 8(c)  
2 of the Prison Rape Elimination Act of  
3 2003 (42 U.S.C. 15607(c)) whenever nec-  
4 essary, including in cases in which a child  
5 is at risk to harm himself, herself, or oth-  
6 ers;

7 (iii) is provided with climate appro-  
8 priate clothing, shoes, basic personal hy-  
9 giene and sanitary products, a pillow, lin-  
10 ens, and sufficient blankets to rest at a  
11 comfortable temperature;

12 (iv) receives adequate nutrition;

13 (v) enjoys a safe and sanitary living  
14 environment;

15 (vi) has access to daily recreational  
16 programs and activities if held for a period  
17 longer than 24 hours;

18 (vii) has access to legal services and  
19 consular officials; and

20 (viii) is permitted to make supervised  
21 phone calls to family members.

22 (3) FINAL DETERMINATIONS.—The Office of  
23 Refugee Resettlement in accordance with applicable  
24 policies and procedures for sponsors, shall submit  
25 final determinations on family relationships to the

1 Secretary, who shall consider such adult relatives for  
2 community-based support alternatives to detention.

3 (4) REPORT.—Not later than 18 months after  
4 the date of the enactment of this Act, and annually  
5 thereafter, the Secretary shall submit a report to  
6 Congress that—

7 (A) describes the screening procedures  
8 used by the child welfare professionals to screen  
9 unaccompanied alien children;

10 (B) assesses the effectiveness of such  
11 screenings; and

12 (C) includes data on all unaccompanied  
13 alien children who were screened by child wel-  
14 fare professionals;

15 (f) IMMEDIATE NOTIFICATION.—The Secretary shall  
16 notify the Office of Refugee Resettlement of an unaccom-  
17 panied alien child in the custody of the Department as  
18 soon as practicable, but generally not later than 48 hours  
19 after the Department encounters the child, to effectively  
20 and efficiently coordinate the child's transfer to and place-  
21 ment with the Office of Refugee Resettlement.

22 (g) NOTICE OF RIGHTS AND RIGHT TO ACCESS TO  
23 COUNSEL.—



1           (1) IN GENERAL.—The Secretary shall ensure  
2           that all unaccompanied alien children, upon appre-  
3           hension, are provided—

4                   (A) an interview and screening with a child  
5           welfare professional described in subsection  
6           (e)(1); and

7                   (B) an orientation and oral and written  
8           notice of their rights under the Immigration  
9           and Nationality Act, including—

10                   (i) their right to relief from removal;

11                   (ii) their right to confer with counsel

12                   (as guaranteed under section 292 of such

13           Act (8 U.S.C. 1362)), family, or friends

14           while in the temporary custody of the De-

15           partment; and

16                   (iii) relevant complaint mechanisms to

17           report any abuse or misconduct they may

18           have experienced.

19           (2) LANGUAGES.—The Secretary shall ensure  
20           that—

21                   (A) the video orientation and written no-  
22           tice of rights described in paragraph (1) is  
23           available in English and in the 5 most common  
24           native languages spoken by the unaccompanied

1 children held in custody at that location during  
2 the preceding fiscal year; and

3 (B) the oral notice of rights is available in  
4 English and in the most common native lan-  
5 guage spoken by the unaccompanied children  
6 held in custody at that location during the pre-  
7 ceding fiscal year.

8 (h) CONFIDENTIALITY.—The Secretary of Health  
9 and Human Services shall maintain the privacy and con-  
10 fidentiality of all information gathered in the course of  
11 providing care, custody, placement, and follow-up services  
12 to unaccompanied alien children, consistent with the best  
13 interest of the unaccompanied alien child, by not dis-  
14 closing such information to other government agencies or  
15 nonparental third parties unless such disclosure is—

16 (1) recorded in writing and placed in the child's  
17 file;

18 (2) in the child's best interest; and

19 (3)(A) authorized by the child or by an ap-  
20 proved sponsor in accordance with section 235 of the  
21 William Wilberforce Trafficking Victims Protection  
22 Reauthorization Act of 2008 (8 U.S.C. 1232) and  
23 the Health Insurance Portability and Accountability  
24 Act (Public Law 104–191); or

1 (B) provided to a duly recognized law enforce-  
2 ment entity to prevent imminent and serious harm  
3 to another individual.

4 (i) OTHER POLICIES AND PROCEDURES.—The Sec-  
5 retary shall adopt fundamental child protection policies  
6 and procedures—

7 (1) for reliable age determinations of children,  
8 developed in consultation with medical and child wel-  
9 fare experts, which exclude the use of fallible foren-  
10 sic testing of children's bone and teeth;

11 (2) to utilize all legal authorities to defer the  
12 child's removal if the child faces a risk of life-threat-  
13 ening harm upon return including due to the child's  
14 mental health or medical condition; and

15 (3) to ensure, in accordance with the Juvenile  
16 Justice and Delinquency Prevention Act of 1974 (42  
17 U.S.C. 5601 et seq.), that unaccompanied alien chil-  
18 dren, while in detention, are—

19 (A) physically separated from any adult  
20 who is not an immediate family member; and

21 (B) separated from—

22 (i) immigration detainees and inmates  
23 with criminal convictions;

24 (ii) pretrial inmates facing criminal  
25 prosecution; and

1 (iii) inmates exhibiting violent behav-  
2 ior.

3 (j) REPATRIATION AND REINTEGRATION PRO-  
4 GRAM.—

5 (1) IN GENERAL.—The Administrator of the  
6 United States Agency for International Develop-  
7 ment, in conjunction with the Secretary, the Sec-  
8 retary of Health and Human Services, the Attorney  
9 General, international organizations, and nongovern-  
10 mental organizations in the United States with ex-  
11 pertise in repatriation and reintegration, shall create  
12 a multi-year program to develop and implement best  
13 practices and sustainable programs in the United  
14 States and within the country of return to ensure  
15 the safe and sustainable repatriation and reintegra-  
16 tion of unaccompanied alien children into their coun-  
17 try of nationality or of last habitual residence, in-  
18 cluding placement with their families, legal guard-  
19 ians, or other sponsoring agencies.

20 (2) REPORT ON REPATRIATION AND RE-  
21 INTEGRATION OF UNACCOMPANIED ALIEN CHIL-  
22 DREN.—Not later than 18 months after the date of  
23 the enactment of this Act, and annually thereafter,  
24 the Administrator of the Agency for International  
25 Development shall submit a substantive report to the

1 Committee on the Judiciary of the Senate and the  
2 Committee on the Judiciary of the House of Rep-  
3 resentatives on efforts to improve repatriation and  
4 reintegration programs for unaccompanied alien chil-  
5 dren.

6 (k) TRANSFER OF FUNDS.—

7 (1) AUTHORIZATION.—The Secretary, in ac-  
8 cordance with a written agreement between the Sec-  
9 retary and the Secretary of Health and Human  
10 Services, shall transfer such amounts as may be nec-  
11 essary to carry out the duties described in subsection  
12 (f)(2) from amounts appropriated for U.S. Customs  
13 and Border Protection to the Department of Health  
14 and Human Services.

15 (2) REPORT.—Not later than 15 days before  
16 any proposed transfer under paragraph (1), the Sec-  
17 retary of Health and Human Services, in consulta-  
18 tion with the Secretary, shall submit a detailed ex-  
19 penditure plan that describes the actions proposed to  
20 be taken with amounts transferred under such para-  
21 graph to—

22 (A) the Committee on Appropriations of  
23 the Senate; and

24 (B) the Committee on Appropriations of  
25 the House of Representatives.

1   **SEC. 3613. RULE OF CONSTRUCTION.**

2           Nothing in this subtitle shall be construed to preempt  
3 or alter any other rights or remedies, including any causes  
4 of action, available under any other Federal or State law.

5   **SEC. 3614. REGULATIONS.**

6           The Secretary shall, in consultation with the Sec-  
7 retary of Labor, prescribe regulations to implement this  
8 subtitle and to develop policies and procedures to enforce  
9 the provisions of this subtitle.

10   **Subtitle G—Interior Enforcement**

11   **SEC. 3701. CRIMINAL STREET GANGS.**

12           (a) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C.  
13 1182(a)(2)) is amended by inserting after subparagraph  
14 (I) the following:

15                   “(J)   ALIENS   IN   CRIMINAL   STREET  
16                   GANGS.—

17                   “(i) IN GENERAL.—Any alien is inad-  
18                   missible—

19                   “(I) who has been convicted of  
20                   an offense for which an element was  
21                   active participation in a criminal  
22                   street gang (as defined in section  
23                   521(a) of title 18, United States  
24                   Code) and the alien—

25                   “(aa) had knowledge that  
26                   the gang’s members engaged in

751

1 or have engaged in a continuing  
2 series of offenses described in  
3 section 521(c) of title 18, United  
4 States Code; and

5 “(bb) acted with the inten-  
6 tion to promote or further the fe-  
7 lonious activities of the criminal  
8 street gang or maintain or in-  
9 crease his or her position in the  
10 gang; or

11 “(II) subject to clause (ii), who is  
12 18 years of age or older, who is phys-  
13 ically present outside the United  
14 States, whom the Secretary deter-  
15 mines by clear and convincing evi-  
16 dence, based upon law enforcement in-  
17 formation deemed credible by the Sec-  
18 retary, has, since the age of 18, know-  
19 ingly and willingly participated in a  
20 criminal street gang with knowledge  
21 that such participation promoted or  
22 furthered the illegal activity of the  
23 gang.

24 “(ii) WAIVER.—The Secretary may  
25 waive clause (i)(II) if the alien has re-

1                   nounced all association with the criminal  
2                   street gang, is otherwise admissible, and is  
3                   not a threat to the security of the United  
4                   States.”.

5           (b)    GROUNDS     FOR     DEPORTATION.—Section  
6 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at  
7 the end the following:

8                   “(G) ALIENS ASSOCIATED WITH CRIMINAL  
9                   STREET GANGS.—Any alien is removable who  
10                  has been convicted of an offense for which an  
11                  element was active participation in a criminal  
12                  street gang (as defined in section 521(a) of title  
13                  18, United States Code), and the alien—

14                  “(i) had knowledge that the gang’s  
15                  members engaged in or have engaged in a  
16                  continuing series of offenses described in  
17                  section 521(c) of title 18, United States  
18                  Code; and

19                  “(ii) acted with the intention to pro-  
20                  mote or further the felonious activities the  
21                  criminal street gang or increase his or her  
22                  position in such gang.”.

23           (c) GROUND OF INELIGIBILITY FOR REGISTERED  
24 PROVISIONAL IMMIGRANT STATUS.—



1           (1) IN GENERAL.—An alien who is 18 years of  
2           age or older is ineligible for registered provisional  
3           immigrant status if the Secretary determines that  
4           the alien—

5                   (A) has been convicted of an offense for  
6                   which an element was active participation in a  
7                   criminal street gang (as defined in section  
8                   521(a) of title 18, United States Code, and the  
9                   alien—

10                           (i) had knowledge that the gang's  
11                           members engaged in or have engaged in a  
12                           continuing series of offenses described in  
13                           section 521(c) of title 18, United States  
14                           Code; and

15                           (ii) acted with the intention to pro-  
16                           mote or further the felonious activities of  
17                           the criminal street gang or maintain or in-  
18                           crease his or her position in such gang; or

19           (B) subject to paragraph (2), any alien  
20           who is 18 years of age or older whom the Sec-  
21           retary determines by clear and convincing evi-  
22           dence, based upon law enforcement information  
23           deemed credible by the Secretary, has, since the  
24           age of 18, knowingly and willingly participated  
25           in a such gang with knowledge that such par-

1           ticipation promoted or furthered the illegal ac-  
2           tivity of such gang.

3           (2) WAIVER.—The Secretary may waive the ap-  
4           plication of paragraph (1)(B) if the alien has re-  
5           nounced all association with the criminal street  
6           gang, is otherwise admissible, and is not a threat to  
7           the security of the United States.

8   **SEC. 3702. BANNING HABITUAL DRUNK DRIVERS FROM THE**  
9                           **UNITED STATES.**

10          (a)    **GROUND**    **FOR**    **INADMISSIBILITY.**—Section  
11   212(a)(2) (8 U.S.C. 1182(a)(2)), as amended by section  
12   3701(a), is further amended—

13                (1) by redesignating subparagraph (F) as sub-  
14                paragraph (L); and

15                (2) by inserting after subparagraph (E) the fol-  
16                lowing:

17                       “(F)   **HABITUAL    DRUNK    DRIVERS.**—An  
18                       alien convicted of 3 or more offenses for driving  
19                       under the influence or driving while intoxicated  
20                       on separate dates is inadmissible.”.

21          (b)    **GROUND**    **FOR**    **DEPORTATION.**—Section  
22   237(a)(2) (8 U.S.C. 1227(a)(2)), as amended by section  
23   3701(b), is further amended by adding at the end the fol-  
24                lowing:

1           “(H) HABITUAL DRUNK DRIVERS.—An  
2           alien convicted of 3 or more offenses for driving  
3           under the influence or driving while intoxicated,  
4           at least 1 of which occurred after the date of  
5           the enactment of the Border Security, Eco-  
6           nomic Opportunity, and Immigration Mod-  
7           ernization Act, is deportable.”.

8           (c) IN GENERAL.—

9           (1) AGGRAVATED FELONY.—Section  
10          101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amend-  
11          ed by striking “for which the term of imprisonment”  
12          and inserting “, including a third drunk driving con-  
13          viction, for which the term of imprisonment is”.

14          (2) EFFECTIVE DATE AND APPLICATION.—

15           (A) EFFECTIVE DATE.—The amendment  
16          made by paragraph (1) shall take effect on the  
17          date of the enactment of this Act.

18           (B) APPLICATION.—

19           (i) IN GENERAL.—Except as provided  
20          in subparagraph (ii), the amendment made  
21          by paragraph (1) shall apply to a convic-  
22          tion for drunk driving that occurred be-  
23          fore, on, or after such date of enactment.

24           (ii) TWO OR MORE PRIOR CONVIC-  
25          TIONS.—An alien who received 2 or more

1 convictions for drunk driving before the  
2 date of the enactment of this Act may not  
3 be subject to removal for the commission  
4 of an aggravated felony pursuant to sec-  
5 tion 237(a)(2)(A)(iii) of the Immigration  
6 and Nationality Act (8 U.S.C.  
7 1227(a)(2)(A)(iii)) on the basis of such  
8 convictions until the date on which the  
9 alien is convicted of a drunk driving of-  
10 fense after such date of enactment.

11 **SEC. 3703. SEXUAL ABUSE OF A MINOR.**

12 Section 101(a)(43)(A) (8 U.S.C. 1101(a)(43)(A)) is  
13 amended by striking “murder, rape, or sexual abuse of  
14 a minor;” and inserting “murder, rape, or sexual abuse  
15 of a minor, whether or not the minority of the victim is  
16 established by evidence contained in the record of convic-  
17 tion or by credible evidence extrinsic to the record of con-  
18 viction;”.

19 **SEC. 3704. ILLEGAL ENTRY.**

20 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is  
21 amended to read as follows:

22 **“SEC. 275. ILLEGAL ENTRY.**

23 “(a) IN GENERAL.—

1           “(1) CRIMINAL OFFENSES.—An alien shall be  
2           subject to the penalties set forth in paragraph (2) if  
3           the alien—

4                   “(A) enters or crosses the border into the  
5           United States at any time or place other than  
6           as designated by the Secretary of Homeland Se-  
7           curity;

8                   “(B) eludes examination or inspection by  
9           an immigration officer, or a customs or agri-  
10          culture inspection at a port of entry; or

11                   “(C) enters or crosses the border to the  
12          United States by means of a knowingly false or  
13          misleading representation or the concealment of  
14          a material fact.

15           “(2) CRIMINAL PENALTIES.—Any alien who  
16          violates any provision under paragraph (1)—

17                   “(A) shall, for the first violation, be fined  
18          under title 18, United States Code, imprisoned  
19          not more than 12 months, or both;

20                   “(B) shall, for a second or subsequent vio-  
21          lation, or following an order of voluntary depar-  
22          ture, be fined under such title, imprisoned not  
23          more than 3 years, or both;

24                   “(C) if the violation occurred after the  
25          alien had been convicted of 3 or more mis-

1           demeanors with the convictions occurring on  
2           different dates or of a felony for which the alien  
3           served a term of imprisonment of 15 days or  
4           more, shall be fined under such title, impris-  
5           oned not more than 10 years, or both; and

6           “(D) if the violation occurred after the  
7           alien had been convicted of a felony for which  
8           the alien was sentenced to a term of imprison-  
9           ment of not less than 30 months, shall be fined  
10          under such title, imprisoned not more than 15  
11          years, or both.

12          “(3) PRIOR CONVICTIONS.—The prior convic-  
13          tions described in subparagraphs (C) and (D) of  
14          paragraph (2) are elements of the offenses described  
15          in that paragraph and the penalties in such subpara-  
16          graphs shall apply only in cases in which the convic-  
17          tion or convictions that form the basis for the addi-  
18          tional penalty are—

19                 “(A) alleged in the indictment or informa-  
20                 tion; and

21                 “(B) proven beyond a reasonable doubt at  
22                 trial or admitted by the defendant under oath  
23                 as part of a plea agreement.

24          “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
25          ALTIES.—Any alien older than 18 years of age who is ap-

1   prehended while knowingly entering, attempting to enter,  
2   or crossing or attempting to cross the border to the United  
3   States at a time or place other than as designated by im-  
4   migration officers shall be subject to a civil penalty, in  
5   addition to any criminal or other civil penalties that may  
6   be imposed under any other provision of law, in an amount  
7   equal to—

8           “(1) not less than \$250 or more than \$5,000  
9           for each such entry, crossing, attempted entry, or at-  
10          tempted crossing; or

11           “(2) twice the amount specified in paragraph  
12          (1) if the alien had previously been subject to a civil  
13          penalty under this subsection.

14          “(c) FRAUDULENT MARRIAGE.—An individual who  
15          knowingly enters into a marriage for the purpose of evad-  
16          ing any provision of the immigration laws shall be impris-  
17          oned for not more than 5 years, fined not more than  
18          \$250,000, or both.

19          “(d) COMMERCIAL ENTERPRISES.—Any individual  
20          who knowingly establishes a commercial enterprise for the  
21          purpose of evading any provision of the immigration laws  
22          shall be imprisoned for not more than 5 years, fined in  
23          accordance with title 18, United States Code, or both.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 is amended by striking the item relating to section 275  
3 and inserting the following:

“Sec. 275. Illegal entry.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect 1 year after the date of the  
6 enactment of this Act.

7 **SEC. 3705. REENTRY OF REMOVED ALIEN.**

8 Section 276 (8 U.S.C. 1326) is amended to read as  
9 follows:

10 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

11 “(a) REENTRY AFTER REMOVAL.—Any alien who  
12 has been denied admission, excluded, deported, or re-  
13 moved, or who has departed the United States while an  
14 order of exclusion, deportation, or removal is outstanding,  
15 and subsequently enters, attempts to enter, crosses the  
16 border to, attempts to cross the border to, or is at any  
17 time found in the United States, shall be fined under title  
18 18, United States Code, and imprisoned not more than  
19 2 years.

20 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-  
21 withstanding the penalty provided in subsection (a), if an  
22 alien described in that subsection—

23 “(1) was convicted for 3 or more misdemeanors,  
24 with the convictions occurring on different dates, be-  
25 fore such removal or departure, the alien shall be



1        fined under title 18, United States Code, and im-  
2        prisoned not more than 10 years, or both;

3            “(2) was convicted for a felony before such re-  
4        moval or departure for which the alien was sen-  
5        tenced to a term of imprisonment of not less than  
6        30 months, the alien shall be fined under such title,  
7        and imprisoned not more than 15 years, or both;

8            “(3) was convicted for a felony before such re-  
9        moval or departure for which the alien was sen-  
10       tenced to a term of imprisonment of not less than  
11       60 months, the alien shall be fined under such title,  
12       and imprisoned not more than 20 years, or both;

13           “(4) was convicted for 3 felonies, with the con-  
14       victions occurring on different dates before such re-  
15       moval or departure, the alien shall be fined under  
16       such title, and imprisoned not more than 20 years,  
17       or both; or

18           “(5) was convicted, before such removal or de-  
19       parture, for murder, rape, kidnapping, or a felony  
20       offense described in chapter 77 (relating to peonage  
21       and slavery) or 113B (relating to terrorism) of such  
22       title, the alien shall be fined under such title, and  
23       imprisoned not more than 20 years, or both.

24        “(c) REENTRY AFTER REPEATED REMOVAL.—Any  
25       alien who has been denied admission, excluded, deported,

1 or removed 3 or more times and thereafter enters, at-  
2 tempts to enter, crosses the border to, attempts to cross  
3 the border to, or is at any time found in the United States,  
4 shall be fined under title 18, United States Code, and im-  
5 prisoned not more than 10 years, or both.

6 “(d) PROOF OF PRIOR CONVICTIONS.—The prior  
7 convictions described in subsection (b) are elements of the  
8 offenses described in that subsection, and the penalties in  
9 such subsection shall apply only in cases in which the con-  
10 viction or convictions that form the basis for the additional  
11 penalty are—

12 “(1) alleged in the indictment or information;  
13 and

14 “(2) proven beyond a reasonable doubt at trial  
15 or admitted by the defendant under oath as part of  
16 a plea agreement.

17 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-  
18 firmative defense to a violation of this section that—

19 “(1) prior to the alleged violation, the alien had  
20 sought and received the express consent of the Sec-  
21 retary of Homeland Security to reapply for admis-  
22 sion into the United States; or

23 “(2) at the time of the prior exclusion, deporta-  
24 tion, removal, or denial of admission alleged in the  
25 violation, the alien had not yet reached 18 years of

1       age and had not been convicted of a crime or adju-  
2       dicated a delinquent minor by a court of the United  
3       States, or a court of a state or territory, for conduct  
4       that would constitute a felony if committed by an  
5       adult.

6       “(f) LIMITATION ON COLLATERAL ATTACK ON UN-  
7       DERLYING DEPORTATION ORDER.—In a criminal pro-  
8       ceeding under this section, an alien may not challenge the  
9       validity of the deportation order described in subsection  
10      (a) or subsection (c) unless the alien demonstrates that—

11           “(1) the alien exhausted any administrative  
12           remedies that may have been available to seek relief  
13           against the order;

14           “(2) the deportation proceedings at which the  
15           order was issued improperly deprived the alien of the  
16           opportunity for judicial review; and

17           “(3) the entry of the order was fundamentally  
18           unfair.

19       “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-  
20       PLETION OF TERM OF IMPRISONMENT.—Any alien re-  
21       moved pursuant to section 241(a)(4) who enters, attempts  
22       to enter, crosses the border to, attempts to cross the bor-  
23       der to, or is at any time found in, the United States shall  
24       be incarcerated for the remainder of the sentence of im-  
25       prisonment which was pending at the time of deportation

1 without any reduction for parole or supervised release un-  
2 less the alien affirmatively demonstrates that the Sec-  
3 retary of Homeland Security has expressly consented to  
4 the alien's reentry or the alien is prima facie eligible for  
5 protection from removal. Such alien shall be subject to  
6 such other penalties relating to the reentry of removed  
7 aliens as may be available under this section or any other  
8 provision of law.

9       “(h) LIMITATION.—It is not aiding and abetting a  
10 violation of this section for an individual to provide an  
11 alien with emergency humanitarian assistance, including  
12 emergency medical care and food, or to transport the alien  
13 to a location where such assistance can be rendered with-  
14 out compensation or the expectation of compensation.

15       “(i) DEFINITIONS.—In this section:

16           “(1) FELONY.—The term ‘felony’ means any  
17 criminal offense punishable by a term of imprison-  
18 ment of more than 1 year under the laws of the  
19 United States, any State, or a foreign government.

20           “(2) MISDEMEANOR.—The term ‘misdemeanor’  
21 means any criminal offense punishable by a term of  
22 imprisonment of not more than 1 year under the ap-  
23 plicable laws of the United States, any State, or a  
24 foreign government.

1           “(3) REMOVAL.—The term ‘removal’ includes  
2           any denial of admission, exclusion, deportation, or  
3           removal, or any agreement by which an alien stipu-  
4           lates or agrees to exclusion, deportation, or removal.

5           “(4) STATE.—The term ‘State’ means a State  
6           of the United States, the District of Columbia, and  
7           any commonwealth, territory, or possession of the  
8           United States.”.

9   **SEC. 3706. PENALTIES RELATING TO VESSELS AND AIR-**  
10                   **CRAFT.**

11           Section 243(c) (8 U.S.C. 1253(c)) is amended—

12           (1) by striking “Attorney General” each place  
13           such term appears and inserting “Secretary of  
14           Homeland Security”;

15           (2) by striking “Commissioner” each place such  
16           term appears and inserting “Secretary of Homeland  
17           Security”; and

18           (3) in paragraph (1)—

19                   (A) in subparagraph (A), by striking  
20                   “\$2,000” and inserting “\$5,000”;

21                   (B) in subparagraph (B), by striking  
22                   “\$5,000” and inserting “\$10,000”;

23                   (C) by amending subparagraph (C) to read  
24                   as follows:

1           “(C) COMPROMISE.—The Secretary of  
2           Homeland Security, in the Secretary’s  
3           unreviewable discretion and upon the receipt of  
4           a written request, may mitigate the monetary  
5           penalties required under this subsection for  
6           each alien stowaway to an amount equal to not  
7           less than \$2,000, upon such terms that the Sec-  
8           retary determines to be appropriate.”; and

9           (D) by inserting at the end the following:

10          “(D) EXCEPTION.—A person, acting with-  
11          out compensation or the expectation of com-  
12          pensation, is not subject to penalties under this  
13          paragraph if the person is—

14               “(i) providing, or attempting to pro-  
15               vide, an alien with humanitarian assist-  
16               ance, including emergency medical care or  
17               food or water; or

18               “(ii) transporting the alien to a loca-  
19               tion where such humanitarian assistance  
20               can be rendered without compensation or  
21               the expectation of compensation.”.

1   **SEC. 3707. REFORM OF PASSPORT, VISA, AND IMMIGRATION**  
2                   **FRAUD OFFENSES.**

3           (a) **TRAFFICKING IN PASSPORTS.**—Section 1541 of  
4 title 18, United States Code, is amended to read as fol-  
5 lows:

6   **“§ 1541. Trafficking in passports**

7           “(a) **MULTIPLE PASSPORTS.**—Subject to subsection  
8 (b), any person who, during any period of 3 years or less,  
9 knowingly—

10           “(1) and without lawful authority produces,  
11 issues, or transfers 3 or more passports;

12           “(2) forges, counterfeits, alters, or falsely  
13 makes 3 or more passports;

14           “(3) secures, possesses, uses, receives, buys,  
15 sells, or distributes 3 or more passports, knowing  
16 the passports to be forged, counterfeited, altered,  
17 falsely made, stolen, procured by fraud, or produced  
18 or issued without lawful authority; or

19           “(4) completes, mails, prepares, presents, signs,  
20 or submits 3 or more applications for a United  
21 States passport, knowing the applications to contain  
22 any materially false statement or representation,  
23 shall be fined under this title, imprisoned not more than  
24 20 years, or both.

25           “(b) **USE IN A TERRORISM OFFENSE.**—Any person  
26 who commits an offense described in subsection (a) to fa-

1 cilitate an act of international terrorism (as defined in sec-  
2 tion 2331) shall be fined under this title, imprisoned not  
3 more than 25 years, or both.

4 “(c) PASSPORT MATERIALS.—Any person who know-  
5 ingly and without lawful authority produces, buys, sells,  
6 possesses, or uses any official material (or counterfeit of  
7 any official material) used to make 10 or more passports,  
8 including any distinctive paper, seal, hologram, image,  
9 text, symbol, stamp, engraving, or plate, shall be fined  
10 under this title, imprisoned not more than 20 years, or  
11 both.”.

12 (b) FALSE STATEMENT IN AN APPLICATION FOR A  
13 PASSPORTS.—Section 1542 of title 18, United States  
14 Code, is amended to read as follows:

15 **“§ 1542. False statement in an application for a pass-**  
16 **port**

17 “(a) IN GENERAL.—Any person who knowingly  
18 makes any material false statement or representation in  
19 an application for a United States passport, or mails, pre-  
20 pares, presents, or signs an application for a United  
21 States passport knowing the application to contain any  
22 material false statement or representation, shall be fined  
23 under this title, imprisoned not more than 25 years (if  
24 the offense was committed to facilitate an act of inter-  
25 national terrorism (as defined in section 2331 of this



1 title)), 20 years (if the offense was committed to facilitate  
2 a drug trafficking crime (as defined in section 929(a) of  
3 this title)), 15 years (in the case of any other offense),  
4 or both.

5 “(b) VENUE.—

6 “(1) IN GENERAL.—An offense under sub-  
7 section (a) may be prosecuted in any district—

8 “(A) in which the false statement or rep-  
9 resentation was made or the application for a  
10 United States passport was prepared or signed;  
11 or

12 “(B) in which or to which the application  
13 was mailed or presented.

14 “(2) OFFENSES OUTSIDE THE UNITED  
15 STATES.—An offense under subsection (a) involving  
16 an application prepared and adjudicated outside the  
17 United States may be prosecuted in the district in  
18 which the resultant passport was or would have been  
19 produced.

20 “(c) SAVINGS CLAUSE.—Nothing in this section may  
21 be construed to limit the venue otherwise available under  
22 sections 3237 and 3238 of this title.”.

23 (c) MISUSE OF A PASSPORT.—Section 1544 of title  
24 18, United States Code, is amended to read as follows:

1 **“§ 1544. Misuse of a passport**

2 “Any person who knowingly—

3 “(1) misuses or attempts to misuse for their  
4 own purposes any passport issued or designed for  
5 the use of another;

6 “(2) uses or attempts to use any passport in  
7 violation of the laws, regulations, or rules governing  
8 the issuance and use of the passport;

9 “(3) secures, possesses, uses, receives, buys,  
10 sells, or distributes or attempts to secure, possess,  
11 use, receive, buy, sell, or distribute any passport  
12 knowing the passport to be forged, counterfeited, al-  
13 tered, falsely made, procured by fraud, or produced  
14 or issued without lawful authority; or

15 “(4) substantially violates the terms and condi-  
16 tions of any safe conduct duly obtained and issued  
17 under the authority of the United States,

18 shall be fined under this title, imprisoned not more than  
19 25 years (if the offense was committed to facilitate an act  
20 of international terrorism (as defined in section 2331 of  
21 this title)), 20 years (if the offense was committed to fa-  
22 cilitate a drug trafficking crime (as defined in section  
23 929(a) of this title)), 15 years (in the case of any other  
24 offense), or both.”.

1 (d) SCHEMES TO PROVIDE FRAUDULENT IMMIGRA-  
2 TION SERVICES.—Section 1545 of title 18, United States  
3 Code, is amended to read as follows:

4 **“§ 1545. Schemes to provide fraudulent immigration**  
5 **services**

6 “(a) IN GENERAL.—Any person who knowingly exe-  
7 cutes a scheme or artifice, in connection with any matter  
8 that is authorized by or arises under any Federal immigra-  
9 tion law or any matter the offender claims or represents  
10 is authorized by or arises under any Federal immigration  
11 law, to—

12 “(1) defraud any person; or

13 “(2) obtain or receive money or anything else of  
14 value from any person by means of false or fraudu-  
15 lent pretenses, representations, or promises,

16 shall be fined under this title, imprisoned not more than  
17 10 years, or both.

18 “(b) MISREPRESENTATION.—Any person who know-  
19 ingly and falsely represents that such person is an attor-  
20 ney or an accredited representative (as that term is de-  
21 fined in section 1292.1 of title 8, Code of Federal Regula-  
22 tions (or any successor regulation)) in any matter arising  
23 under any Federal immigration law shall be fined under  
24 this title, imprisoned not more than 15 years, or both.”.

1 (e) IMMIGRATION AND VISA FRAUD.—Section 1546  
2 of title 18, United States Code, is amended—

3 (1) by amending the section heading to read as  
4 follows:

5 **“§ 1546. Immigration and visa fraud”;**

6 (2) by redesignating subsection (b) as sub-  
7 section (d); and

8 (3) by inserting after subsection (a) the fol-  
9 lowing new subsections:

10 “(b) TRAFFICKING.—Any person who, during any pe-  
11 riod of 3 years or less, knowingly—

12 “(1) and without lawful authority produces,  
13 issues, or transfers 3 or more immigration docu-  
14 ments;

15 “(2) forges, counterfeits, alters, or falsely  
16 makes 3 or more immigration documents;

17 “(3) secures, possesses, uses, buys, sells, or dis-  
18 tributes 3 or more immigration documents, knowing  
19 the immigration documents to be forged, counter-  
20 feited, altered, stolen, falsely made, procured by  
21 fraud, or produced or issued without lawful author-  
22 ity; or

23 “(4) completes, mails, prepares, presents, signs,  
24 or submits 3 or more immigration documents know-

1       ing the documents to contain any materially false  
2       statement or representation,  
3 shall be fined under this title, imprisoned not more than  
4 20 years, or both.

5       “(c) IMMIGRATION DOCUMENT MATERIALS.—Any  
6 person who knowingly and without lawful authority pro-  
7 duces, buys, sells, possesses, or uses any official material  
8 (or counterfeit of any official material) used to make 10  
9 or more immigration documents, including any distinctive  
10 paper, seal, hologram, image, text, symbol, stamp, engrav-  
11 ing, or plate, shall be fined under this title, imprisoned  
12 not more than 20 years, or both.”.

13       (f) ALTERNATIVE IMPRISONMENT MAXIMUM FOR  
14 CERTAIN OFFENSES.—Section 1547 of title 18, United  
15 States Code, is amended—

16           (1) in the matter preceding paragraph (1), by  
17 striking “(other than an offense under section  
18 1545)”;

19           (2) in paragraph (1), by striking “15” and in-  
20 serting “20”; and

21           (3) in paragraph (2), by striking “20” and in-  
22 serting “25”.

23       (g) AUTHORIZED LAW ENFORCEMENT ACTIVITIES.—  
24 Chapter 75 of title 18, United States Code, is amended  
25 by adding after section 1547 the following:

1 **“§ 1548. Authorized law enforcement activities**

2 “Nothing in this chapter may be construed to pro-  
3 hibit—

4 “(1) any lawfully authorized investigative, pro-  
5 tective, or intelligence activity of a law enforcement  
6 agency of the United States, a State, or a political  
7 subdivision of a State, or an intelligence agency of  
8 the United States; or

9 “(2) any activity authorized under title V of the  
10 Organized Crime Control Act of 1970 (Public Law  
11 91–452; 84 Stat. 933).”.

12 (h) TABLE OF SECTIONS AMENDMENT.—The table  
13 of sections for chapter 75 of title 18, United States Code,  
14 is amended to read as follows:

“Sec.

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery or false use of a passport.

“1544. Misuse of a passport.

“1545. Schemes to provide fraudulent immigration services.

“1546. Immigration and visa fraud.

“1547. Alternative imprisonment maximum for certain offenses.

“1548. Authorized law enforcement activities.”.

15 **SEC. 3708. COMBATING SCHEMES TO DEFRAUD ALIENS.**

16 (a) REGULATIONS, FORMS, AND PROCEDURES.—The  
17 Secretary and the Attorney General, for matters within  
18 their respective jurisdictions arising under the immigra-  
19 tion laws, shall promulgate appropriate regulations, forms,  
20 and procedures defining the circumstances in which—

1           (1) persons submitting applications, petitions,  
2           motions, or other written materials relating to immi-  
3           gration benefits or relief from removal under the im-  
4           migration laws will be required to identify who  
5           (other than immediate family members) assisted  
6           them in preparing or translating the immigration  
7           submissions; and

8           (2) any person or persons who received com-  
9           pensation (other than a nominal fee for copying,  
10          mailing, or similar services) in connection with the  
11          preparation, completion, or submission of such mate-  
12          rials will be required to sign the form as a preparer  
13          and provide identifying information.

14          (b) CIVIL INJUNCTIONS AGAINST IMMIGRATION  
15 SERVICE PROVIDER.—The Attorney General may com-  
16 mence a civil action in the name of the United States to  
17 enjoin any immigration service provider from further en-  
18 gaging in any fraudulent conduct that substantially inter-  
19 feres with the proper administration of the immigration  
20 laws or who willfully misrepresents such provider’s legal  
21 authority to provide representation before the Department  
22 of Justice or the Department.

23          (c) DEFINITIONS.—In this section:

24           (1) IMMIGRATION LAWS.—The term “immigra-  
25          tion laws” has the meaning given that term in sec-





1                   1546 of title 18, United States  
2                   Code,”.

3           (b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C.  
4 1227(a)(3)(B)(iii)) is amended to read as follows:

5                   “(iii) of a violation of section 1541,  
6                   1545, and subsection (b) of section 1546  
7                   of title 18, United States Code,”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9 subsections (a) and (b) shall apply to proceedings pending  
10 on or after the date of the enactment of this Act, with  
11 respect to conduct occurring on or after that date.

12 **SEC. 3710. DIRECTIVES RELATED TO PASSPORT AND DOCU-**  
13 **MENT FRAUD.**

14           (a) DIRECTIVE TO THE UNITED STATES SEN-  
15 TENCING COMMISSION.—

16                   (1) IN GENERAL.—Pursuant to the authority  
17                   under section 994 of title 28, United States Code,  
18                   the United States Sentencing Commission shall pro-  
19                   mulgate or amend the sentencing guidelines, policy  
20                   statements, and official commentaries, if appro-  
21                   priate, related to passport fraud offenses, including  
22                   the offenses described in chapter 75 of title 18,  
23                   United States Code, as amended by section 3707, to  
24                   reflect the serious nature of such offenses.

1           (2) REPORT.—Not later than 1 year after the  
2           date of the enactment of this Act, the United States  
3           Sentencing Commission shall submit a report on the  
4           implementation of this subsection to—

5                   (A) the Committee on the Judiciary of the  
6           Senate; and

7                   (B) the Committee on the Judiciary of the  
8           House of Representatives.

9           (b) PROTECTION FOR LEGITIMATE REFUGEES AND  
10          ASYLUM SEEKERS.—

11                   (1) IN GENERAL.—

12                           (A) REQUIREMENT FOR GUIDELINES.—

13           The Attorney General, in consultation with the  
14           Secretary, shall develop binding prosecution  
15           guidelines for Federal prosecutors to ensure  
16           that each prosecution of an alien seeking entry  
17           into the United States by fraud is consistent  
18           with the United States treaty obligations under  
19           Article 31(1) of the Convention Relating to the  
20           Status of Refugees, done at Geneva July 28,  
21           1951 (as made applicable by the Protocol Relat-  
22           ing to the Status of Refugees, done at New  
23           York January 31, 1967 (19 UST 6223)).

24                           (B) NO PRIVATE RIGHT OF ACTION.—The  
25           guidelines developed pursuant to subparagraph

1 (A), and any internal office procedures related  
2 to such guidelines—

3 (i) are intended solely for the guid-  
4 ance of attorneys of the United States; and

5 (ii) are not intended to, do not, and  
6 may not be relied upon to, create any right  
7 or benefit, substantive or procedural, en-  
8 forceable at law by any party in any ad-  
9 ministrative, civil, or criminal matter.

10 (2) PROTECTION OF VULNERABLE PERSONS.—

11 A person described in paragraph (3) may not be  
12 prosecuted under chapter 75 of title 18, United  
13 States Code, or under section 275 or 276 of the Im-  
14 migration and Nationality Act (8 U.S.C. 1325 and  
15 1326), in connection with the person's entry or at-  
16 tempted entry into the United States until after the  
17 date on which the person's application for such pro-  
18 tection, classification, or status has been adjudicated  
19 and denied in accordance with the Immigration and  
20 Nationality Act (8 U.S.C. 1101 et seq.).

21 (3) PERSONS SEEKING PROTECTION, CLASSI-  
22 FICATION, OR STATUS.—A person described in this  
23 paragraph is a person who—

24 (A) is seeking protection, classification, or  
25 status; and

1 (B)(i) has filed an application for asylum  
2 under section 208 of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1158), withholding of  
4 removal under section 241(b)(3) of such Act (8  
5 U.S.C. 1231(b)(3)), or relief under the Conven-  
6 tion against Torture and Other Cruel, Inhuman  
7 or Degrading Treatment or Punishment, done  
8 at New York, December 10, 1994, pursuant to  
9 title 8, Code of Federal Regulations;

10 (ii) indicates immediately after apprehen-  
11 sion, that he or she intends to apply for such  
12 asylum, withholding of removal, or relief and  
13 promptly files the appropriate application;

14 (iii) has been referred for a credible fear  
15 interview, a reasonable fear interview, or an  
16 asylum-only hearing under section 235 of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1225) or part 208 of title 8, Code of Federal  
19 Regulations; or

20 (iv) has filed an application for classifica-  
21 tion or status under—

22 (I) subparagraph (T) or (U) of para-  
23 graph (15), paragraph (27)(J), or para-  
24 graph (51) of section 101(a) of the Immi-

1                   gration and Nationality Act (8 U.S.C.  
2                   1101(a)); or  
3                   (II)       section     216(c)(4)(C)       or  
4                   240A(b)(2)   of   such   Act   (8   U.S.C.  
5                   1186a(c)(4)(C) and 1229b(b)(2)).

6 **SEC. 3711. INADMISSIBLE ALIENS.**

7       (a) DETERRING ALIENS ORDERED REMOVED FROM  
8 REMAINING IN THE UNITED STATES UNLAWFULLY.—  
9 Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amend-  
10 ed—

11           (1) in clause (i), by striking “seeks admission  
12       within 5 years of the date of such removal (or within  
13       20 years” and inserting “seeks admission not later  
14       than 5 years after the date of the alien’s removal (or  
15       not later than 20 years after the alien’s removal”;  
16       and

17           (2) in clause (ii), by striking “seeks admission  
18       within 10 years of the date of such alien’s departure  
19       or removal (or within 20 years of” and inserting  
20       “seeks admission not later than 10 years after the  
21       date of the alien’s departure or removal (or not later  
22       than 20 years after”.

23       (b) BIOMETRIC SCREENING.—Section 212 (8 U.S.C.  
24 1182) is amended—

1           (1) in subsection (a)(7), by adding at the end  
2     the following:

3           “(C) WITHHOLDING INFORMATION.—Ex-  
4           cept as provided in subsection (d)(2), any alien  
5           who willfully, through his or her own fault, re-  
6           fuses to comply with a lawful request for bio-  
7           metric information is inadmissible.”; and

8           (2) in subsection (d), by inserting after para-  
9     graph (1) the following:

10          “(2) The Secretary may waive the application  
11       of subsection (a)(7)(C) for an individual alien or a  
12       class of aliens.”.

13       (c) PRECLUDING ADMISSIBILITY OF ALIENS CON-  
14     VICTED OF SERIOUS CRIMINAL OFFENSES AND DOMESTIC  
15     VIOLENCE, STALKING, CHILD ABUSE, AND VIOLATION OF  
16     PROTECTION ORDERS.—

17           (1) INADMISSIBILITY ON CRIMINAL AND RE-  
18       LATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C.  
19       1182), as amended by this Act, is further amend-  
20       ed—

21           (A) in subsection (a)(2), as amended by  
22       sections 3401 and 3402, is further amended by  
23       inserting after subparagraph (J) the following:

1                   “(K) CRIMES OF DOMESTIC VIOLENCE,  
2                   STALKING, OR VIOLATION OF PROTECTIVE OR-  
3                   DERS; CRIMES AGAINST CHILDREN.—

4                   “(i) DOMESTIC VIOLENCE, STALKING,  
5                   AND CHILD ABUSE.—

6                   “(I) IN GENERAL.—Any alien  
7                   who has been convicted of a crime of  
8                   domestic violence, a crime of stalking,  
9                   or a crime of child abuse, child ne-  
10                  glect, or child abandonment, provided  
11                  the alien served at least 1 year impris-  
12                  onment for the crime, or provided the  
13                  alien was convicted of offenses consti-  
14                  tuting more than 1 such crime, not  
15                  arising out of a single scheme of  
16                  criminal misconduct, is inadmissible.

17                  “(II) CRIME OF DOMESTIC VIO-  
18                  LENCE DEFINED.—In this clause, the  
19                  term ‘crime of domestic violence’  
20                  means any crime of violence (as de-  
21                  fined in section 16 of title 18, United  
22                  States Code) against a person com-  
23                  mitted by a current or former spouse  
24                  of the person, by an individual with  
25                  whom the person shares a child in

1 common, by an individual who is co-  
2 habiting with or has cohabited with  
3 the person as a spouse, by an indi-  
4 vidual similarly situated to a spouse  
5 of the person under the domestic or  
6 family violence laws of the jurisdiction  
7 where the offense occurs, or by any  
8 other individual against a person who  
9 is protected from that individual's  
10 acts under the domestic or family vio-  
11 lence laws of the United States or any  
12 State, Indian tribal government, or  
13 unit of local or foreign government.

14 “(ii) VIOLATORS OF PROTECTION OR-  
15 DERS.—

16 “(I) IN GENERAL.—Any alien  
17 who at any time is enjoined under a  
18 protection order issued by a court and  
19 whom the court determines has en-  
20 gaged in conduct that constitutes  
21 criminal contempt of the portion of a  
22 protection order that involves protec-  
23 tion against credible threats of vio-  
24 lence, repeated harassment, or bodily  
25 injury to the person or persons for



1                   whom the protection order was issued,  
2                   is inadmissible.

3                   “(II) PROTECTION ORDER DE-  
4                   FINED.—In this clause, the term ‘pro-  
5                   tection order’ means any injunction  
6                   issued for the purpose of preventing  
7                   violent or threatening acts of domestic  
8                   violence, including temporary or final  
9                   orders issued by civil or criminal  
10                  courts (other than support or child  
11                  custody orders or provisions) whether  
12                  obtained by filing an independent ac-  
13                  tion or as an independent order in an-  
14                  other proceeding.

15                  “(iii) APPLICABILITY.—This subpara-  
16                  graph shall not apply to an alien who has  
17                  been battered or subjected to extreme cru-  
18                  elty and who is not and was not the pri-  
19                  mary perpetrator of violence in the rela-  
20                  tionship, upon a determination by the At-  
21                  torney General or the Secretary of Home-  
22                  land Security that—

23                         “(I) the alien was acting in self-  
24                         defense;

1 “(II) the alien was found to have  
2 violated a protection order intended to  
3 protect the alien; or

4 “(III) the alien committed, was  
5 arrested for, was convicted of, or pled  
6 guilty to committing a crime that did  
7 not result in serious bodily injury.”;  
8 and

9 (B) in subsection (h)—

10 (i) by striking “The Attorney General  
11 may, in his discretion, waive the applica-  
12 tion of subparagraphs (A)(i)(I), (B), (D),  
13 and (E) of subsection (a)(2)” and inserting  
14 “The Attorney General or the Secretary of  
15 Homeland Security may waive the applica-  
16 tion of subparagraphs (A)(i)(I), (B), (D),  
17 and (E) of subsection (a)(2)”; and

18 (ii) by inserting “or the Secretary of  
19 Homeland Security” after “the Attorney  
20 General” each place that term appears.

21 (2) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall apply to any acts that oc-  
23 curred on or after the date of the enactment of this  
24 Act.

1   **SEC. 3712. ORGANIZED AND ABUSIVE HUMAN SMUGGLING**  
2                   **ACTIVITIES.**

3           (a) **ENHANCED PENALTIES.**—

4                   (1) **IN GENERAL.**—Title II (8 U.S.C. 1151 et  
5           seq.) is amended by adding at the end the following:

6   **“SEC. 295. ORGANIZED HUMAN SMUGGLING.**

7           “(a) **PROHIBITED ACTIVITIES.**—Whoever, while act-  
8           ing for profit or other financial gain, knowingly directs  
9           or participates in an effort or scheme to assist or cause  
10          5 or more persons (other than a parent, spouse, or child  
11          of the offender)—

12                   “(1) to enter, attempt to enter, or prepare to  
13           enter the United States—

14                           “(A) by fraud, falsehood, or other corrupt  
15           means;

16                           “(B) at any place other than a port or  
17           place of entry designated by the Secretary; or

18                           “(C) in a manner not prescribed by the im-  
19           migration laws and regulations of the United  
20           States; or

21                   “(2) to travel by air, land, or sea toward the  
22           United States (whether directly or indirectly)—

23                           “(A) knowing that the persons seek to  
24           enter or attempt to enter the United States  
25           without lawful authority; and

1                   “(B) with the intent to aid or further such  
2                   entry or attempted entry; or

3                   “(3) to be transported or moved outside of the  
4                   United States—

5                   “(A) knowing that such persons are aliens  
6                   in unlawful transit from 1 country to another  
7                   or on the high seas; and

8                   “(B) under circumstances in which the  
9                   persons are in fact seeking to enter the United  
10                  States without official permission or legal au-  
11                  thority;

12                  shall be punished as provided in subsection (c) or  
13                  (d).

14                  “(b) CONSPIRACY AND ATTEMPT.—Any person who  
15                  attempts or conspires to violate subsection (a) of this sec-  
16                  tion shall be punished in the same manner as a person  
17                  who completes a violation of such subsection.

18                  “(c) BASE PENALTY.—Except as provided in sub-  
19                  section (d), any person who violates subsection (a) or (b)  
20                  shall be fined under title 18, imprisoned for not more than  
21                  20 years, or both.

22                  “(d) ENHANCED PENALTIES.—Any person who vio-  
23                  lates subsection (a) or (b) shall—

24                         “(1) in the case of a violation during and in re-  
25                         lation to which a serious bodily injury (as defined in

1 section 1365 of title 18) occurs to any person, be  
2 fined under title 18, imprisoned for not more than  
3 30 years, or both;

4 “(2) in the case of a violation during and in re-  
5 lation to which the life of any person is placed in  
6 jeopardy, be fined under title 18, imprisoned for not  
7 more than 30 years, or both;

8 “(3) in the case of a violation involving 10 or  
9 more persons, be fined under title 18, imprisoned for  
10 not more than 30 years, or both;

11 “(4) in the case of a violation involving the  
12 bribery or corruption of a U.S. or foreign govern-  
13 ment official, be fined under title 18, imprisoned for  
14 not more than 30 years, or both;

15 “(5) in the case of a violation involving robbery  
16 or extortion (as those terms are defined in para-  
17 graph (1) or (2), respectively, of section 1951(b)) be  
18 fined under title 18, imprisoned for not more than  
19 30 years, or both;

20 “(6) in the case of a violation during and in re-  
21 lation to which any person is subjected to an invol-  
22 untary sexual act (as defined in section 2246(2) of  
23 title 18), be fined under title 18, imprisoned for not  
24 more than 30 years, or both; or

1           “(7) in the case of a violation resulting in the  
2           death of any person, be fined under title 18, impris-  
3           oned for any term of years or for life, or both.

4           “(e) **LAWFUL AUTHORITY DEFINED.**—

5           “(1) **IN GENERAL.**—In this section, the term  
6           ‘lawful authority’—

7                   “(A) means permission, authorization, or  
8                   license that is expressly provided for in the im-  
9                   migration laws of the United States or accom-  
10                  panying regulations; and

11                  “(B) does not include any such authority  
12                  secured by fraud or otherwise obtained in viola-  
13                  tion of law, nor does it include authority  
14                  sought, but not approved.

15           “(2) **APPLICATION TO TRAVEL OR ENTRY.**—No  
16           alien shall be deemed to have lawful authority to  
17           travel to or enter the United States if such travel or  
18           entry was, is, or would be in violation of law.

19           “(f) **EFFORT OR SCHEME.**—For purposes of this sec-  
20           tion, ‘effort or scheme to assist or cause 5 or more per-  
21           sons’ does not require that the 5 or more persons enter,  
22           attempt to enter, prepare to enter, or travel at the same  
23           time so long as the acts are completed within 1 year.

1   **“SEC. 296. UNLAWFULLY HINDERING IMMIGRATION, BOR-**  
2                   **DER, AND CUSTOMS CONTROLS.**

3           “(a) **ILLICIT SPOTTING.**—Whoever knowingly trans-  
4   mits to another person the location, movement, or activi-  
5   ties of any Federal, State, or tribal law enforcement agen-  
6   cy with the intent to further a Federal crime relating to  
7   United States immigration, customs, controlled sub-  
8   stances, agriculture, monetary instruments, or other bor-  
9   der controls shall be fined under title 18, imprisoned not  
10  more than 10 years, or both.

11          “(b) **DESTRUCTION OF UNITED STATES BORDER**  
12 **CONTROLS.**—Whoever knowingly and without lawful au-  
13 thorization destroys, alters, or damages any fence, barrier,  
14 sensor, camera, or other physical or electronic device de-  
15 ployed by the Federal Government to control the border  
16 or a port of entry or otherwise seeks to construct, exca-  
17 vate, or make any structure intended to defeat, circumvent  
18 or evade any such fence, barrier, sensor camera, or other  
19 physical or electronic device deployed by the Federal gov-  
20 ernment to control the border or a port of entry shall be  
21 fined under title 18, imprisoned not more than 10 years,  
22 or both, and if, at the time of the offense, the person uses  
23 or carries a firearm or who, in furtherance of any such  
24 crime, possesses a firearm, that person shall be fined  
25 under title 18, imprisoned not more than 20 years, or  
26 both.

1       “(c) CONSPIRACY AND ATTEMPT.—Any person who  
2 attempts or conspires to violate subsection (a) or (b) of  
3 this section shall be punished in the same manner as a  
4 person who completes a violation of such subsection.”.

5           (2) TABLE OF CONTENTS AMENDMENT.—The  
6 table of contents is amended by adding after the  
7 item relating to section 294 the following:

“Sec. 295. Organized human smuggling.

“Sec. 296. Unlawfully hindering immigration, border, and customs controls.”.

8       (b) PROHIBITING CARRYING OR USE OF A FIREARM  
9 DURING AND IN RELATION TO AN ALIEN SMUGGLING  
10 CRIME.—Section 924(c) of title 18, United States Code,  
11 is amended—

12           (1) in paragraph (1)—

13               (A) in subparagraph (A), by inserting “,  
14 alien smuggling crime,” after “crime of vio-  
15 lence” each place that term appears; and

16               (B) in subparagraph (D)(ii), by inserting  
17 “, alien smuggling crime,” after “crime of vio-  
18 lence”; and

19           (2) by adding at the end the following:

20       “(6) For purposes of this subsection, the term ‘alien  
21 smuggling crime’ means any felony punishable under sec-  
22 tion 274(a), 277, or 278 of the Immigration and Nation-  
23 ality Act (8 U.S.C. 1324(a), 1327, and 1328).”.



1 (c) STATUTE OF LIMITATIONS.—Section 3298 of title  
2 18, United States Code, is amended by inserting “, 295,  
3 296, or 297” after “274(a)”.

4 **SEC. 3713. PREVENTING CRIMINALS FROM RENOUNCING**  
5 **CITIZENSHIP DURING WARTIME.**

6 Section 349(a) (8 U.S.C. 1481(a)) is amended—

7 (1) by striking paragraph (6) ; and

8 (2) redesignating paragraph (7) as paragraph  
9 (6).

10 **SEC. 3714. DIPLOMATIC SECURITY SERVICE.**

11 Paragraph (1) of section 37(a) of the State Depart-  
12 ment Basic Authorities Act of 1956 (22 U.S.C. 2709(a))  
13 is amended to read as follows:

14 “(1) conduct investigations concerning—

15 “(A) illegal passport or visa issuance or  
16 use;

17 “(B) identity theft or document fraud af-  
18 fecting or relating to the programs, functions,  
19 and authorities of the Secretary of State;

20 “(C) violations of chapter 77 of title 18,  
21 United States Code; and

22 “(D) Federal offenses committed within  
23 the special maritime and territorial jurisdiction  
24 of the United States (as defined in section 7(9)  
25 of title 18, United States Code);”.

1 **SEC. 3715. SECURE ALTERNATIVES PROGRAMS.**

2 (a) IN GENERAL.—The Secretary shall establish se-  
3 cure alternatives programs that incorporate case manage-  
4 ment services in each field office of the Department to  
5 ensure appearances at immigration proceedings and public  
6 safety.

7 (b) CONTRACT AUTHORITY.—The Secretary shall  
8 contract with nongovernmental community-based organi-  
9 zations to conduct screening of detainees, provide appear-  
10 ance assistance services, and operate community-based su-  
11 pervision programs. Secure alternatives shall offer a con-  
12 tinuum of supervision mechanisms and options, including  
13 community support, depending on an assessment of each  
14 individual's circumstances. The Secretary may contract  
15 with nongovernmental organizations to implement secure  
16 alternatives that maintain custody over the alien.

17 (c) INDIVIDUALIZED DETERMINATIONS.—In deter-  
18 mining whether to use secure alternatives, the Secretary  
19 shall make an individualized determination, and for each  
20 individual placed on secure alternatives, shall review the  
21 level of supervision on a monthly basis. Secure alternatives  
22 shall not be used when release on bond or recognizance  
23 is determined to be a sufficient measure to ensure appear-  
24 ances at immigration proceedings and public safety.

25 (d) CUSTODY.—The Secretary may use secure alter-  
26 natives programs to maintain custody over any alien de-

1 tained under the Immigration and Nationality Act, except  
2 for aliens detained under section 236A of such Act (8  
3 U.S.C. 1226a). If an individual is not eligible for release  
4 from custody or detention, the Secretary shall consider the  
5 alien for placement in secure alternatives that maintain  
6 custody over the alien, including the use of electronic ankle  
7 devices.

8 **SEC. 3716. OVERSIGHT OF DETENTION FACILITIES.**

9 (a) DEFINITIONS.—In this section:

10 (1) APPLICABLE STANDARDS.—The term “ap-  
11 plicable standards” means the most recent version of  
12 detention standards and detention-related policies  
13 issued by the Secretary or the Director of U.S. Im-  
14 migration and Customs Enforcement.

15 (2) DETENTION FACILITY.—The term “deten-  
16 tion facility” means a Federal, State, or local gov-  
17 ernment facility, or a privately owned and operated  
18 facility, that is used, in whole or in part, to hold in-  
19 dividuals under the authority of the Director of U.S.  
20 Immigration and Customs Enforcement, including  
21 facilities that hold such individuals under a contract  
22 or agreement with the Director.

23 (b) DETENTION REQUIREMENTS.—The Secretary  
24 shall ensure that all persons detained pursuant to the Im-  
25 migration and Nationality Act (8 U.S.C. 1101 et seq.) are

1 treated humanely and benefit from the protections set  
2 forth in this section.

3 (c) OVERSIGHT REQUIREMENTS.—

4 (1) ANNUAL INSPECTION.—All detention facili-  
5 ties shall be inspected by the Secretary on a regular  
6 basis, but not less than annually, for compliance  
7 with applicable detention standards issued by the  
8 Secretary and other applicable regulations.

9 (2) ROUTINE OVERSIGHT.—In addition to an-  
10 nual inspections, the Secretary shall conduct routine  
11 oversight of detention facilities, including unan-  
12 nounced inspections.

13 (3) AVAILABILITY OF RECORDS.—All detention  
14 facility contracts, memoranda of agreement, and  
15 evaluations and reviews shall be considered records  
16 for purposes of section 552(f)(2) of title 5, United  
17 States Code.

18 (4) CONSULTATION.—The Secretary shall seek  
19 input from nongovernmental organizations regarding  
20 their independent opinion of specific facilities.

21 (d) COMPLIANCE MECHANISMS.—

22 (1) AGREEMENTS.—

23 (A) NEW AGREEMENTS.—Compliance with  
24 applicable standards of the Secretary and all  
25 applicable regulations, and meaningful financial

1 penalties for failure to comply, shall be a mate-  
2 rial term in any new contract, memorandum of  
3 agreement, or any renegotiation, modification,  
4 or renewal of an existing contract or agreement,  
5 including fee negotiations, executed with deten-  
6 tion facilities.

7 (B) EXISTING AGREEMENTS.—Not later  
8 than 180 days after the date of the enactment  
9 of this Act, the Secretary shall secure a modi-  
10 fication incorporating these terms for any exist-  
11 ing contracts or agreements that will not be re-  
12 negotiated, renewed, or otherwise modified.

13 (C) CANCELLATION OF AGREEMENTS.—  
14 Unless the Secretary provides a reasonable ex-  
15 tension to a specific detention facility that is  
16 negotiating in good faith, contracts or agree-  
17 ments with detention facilities that are not  
18 modified within 1 year of the date of the enact-  
19 ment of this Act will be cancelled.

20 (D) PROVISION OF INFORMATION.—In  
21 making modifications under this paragraph, the  
22 Secretary shall require that detention facilities  
23 provide to the Secretary all contracts, memo-  
24 randa of agreement, evaluations, and reviews  
25 regarding the facility on a regular basis. The

1 Secretary shall make these materials publicly  
2 available.

3 (2) FINANCIAL PENALTIES.—

4 (A) REQUIREMENT TO IMPOSE.—Subject  
5 to subparagraph (C), the Secretary shall impose  
6 meaningful financial penalties upon facilities  
7 that fail to comply with applicable detention  
8 standards issued by the Secretary and other ap-  
9 plicable regulations.

10 (B) TIMING OF IMPOSITION.—Financial  
11 penalties imposed under subparagraph (A) shall  
12 be imposed immediately after a facility fails to  
13 achieve an adequate or the equivalent median  
14 score in any performance evaluation.

15 (C) WAIVER.—The requirements of sub-  
16 paragraph (A) may be waived if the facility cor-  
17 rects the noted deficiencies and receives an ade-  
18 quate score in not more than 90 days.

19 (D) MULTIPLE OFFENDERS.—In cases of  
20 persistent and substantial noncompliance, in-  
21 cluding scoring less than adequate or the equiv-  
22 alent median score in 2 consecutive inspections,  
23 the Secretary shall terminate contracts or  
24 agreements with such facilities within 60 days,  
25 or in the case of facilities operated by the Sec-

1           retary, such facilities shall be closed within 90  
2           days.

3       (e) REPORTING REQUIREMENTS.—

4           (1) OBJECTIVES.—Not later than June 30 of  
5       each year, the Secretary shall prepare and submit to  
6       the Committee on the Judiciary of the Senate and  
7       the Committee on the Judiciary of the House of  
8       Representatives a report on inspection and oversight  
9       activities of detention facilities.

10          (2) CONTENTS.—Each report submitted under  
11       paragraph (1) shall include—

12           (A) a description of each detention facility  
13       found to be in noncompliance with applicable  
14       detention standards issued by the Department  
15       and other applicable regulations;

16           (B) a description of the actions taken by  
17       the Department to remedy any findings of non-  
18       compliance or other identified problems, includ-  
19       ing financial penalties, contract or agreement  
20       termination, or facility closure; and

21           (C) information regarding whether the ac-  
22       tions described in subparagraph (B) resulted in  
23       compliance with applicable detention standards  
24       and regulations.

1   **SEC. 3717. PROCEDURES FOR BOND HEARINGS AND FILING**  
2                   **OF NOTICES TO APPEAR.**

3           (a) ALIENS IN CUSTODY.—Section 236 (8 U.S.C.  
4 1226) is amended by adding at the end the following:

5           “(f) PROCEDURES FOR CUSTODY HEARINGS.—For  
6 any alien taken into custody under any provision of this  
7 Act, with the exception of minors being transferred to or  
8 in the custody of the Office of Refugee Resettlement, the  
9 following shall apply:

10           “(1) The Secretary of Homeland Security shall,  
11 without unnecessary delay and not later than 72  
12 hours after the alien is taken into custody, file the  
13 Notice to Appear or other relevant charging docu-  
14 ment with the immigration court having jurisdiction  
15 over the location where the alien was apprehended,  
16 and serve such notice on the alien.

17           “(2) The Secretary shall immediately determine  
18 whether the alien shall remain in custody or be re-  
19 leased and, without unnecessary delay and not later  
20 than 72 hours after the alien was taken into cus-  
21 tody, serve upon the alien the custody decision speci-  
22 fying the reasons for continued custody and the  
23 amount of bond if any.

24           “(3) The Attorney General shall ensure the  
25 alien has the opportunity to appear before an immi-  
26 gration judge for a custody determination hearing



1        promptly after service of the Secretary's custody de-  
2        cision. The immigration judge may, on the Sec-  
3        retary's motion and upon a showing of good cause,  
4        postpone a custody redetermination hearing for no  
5        more than 72 hours after service of the custody deci-  
6        sion, except that in no case shall the hearing occur  
7        more than 6 days (including weekends and holidays)  
8        after the alien was taken into custody.

9            “(4) The immigration judge shall advise the  
10        alien of the right to postpone the custody determina-  
11        tion hearing and shall, on the oral or written request  
12        of the individual, postpone the custody determina-  
13        tion hearing for a period of not more than 14 days.

14           “(5) Except for aliens that the immigration  
15        judge has determined are deportable under section  
16        236(c) or certified under section 236A, the immigra-  
17        tion judge shall review the custody determination de  
18        novo and may continue to detain the alien only if the  
19        Secretary demonstrates that no conditions, including  
20        the use of alternatives to detention that maintain  
21        custody over the alien, will reasonably assure the ap-  
22        pearance of the alien as required and the safety of  
23        any other person and the community. For aliens  
24        whom the immigration judge has determined are de-  
25        portable under section 236(c), the immigration judge

may review the custody determination if the Secretary agrees the alien is not a danger to the community, and alternatives to detention exist that ensure the appearance of the alien, as required, and the safety of any other person and the community.

“(6) In the case of any alien remaining in custody after a custody determination, the Attorney General shall provide de novo custody determination hearings before an immigration judge every 90 days so long as the alien remains in custody. An alien may also obtain a de novo custody redetermination hearing at any time upon a showing of good cause.

13                   “(7) The Secretary shall inform the alien of his  
14           or her rights under this paragraph at the time the  
15           alien is first taken into custody.”.

16 (b) LIMITATIONS ON SOLITARY CONFINEMENT.—

(1) IN GENERAL.—Section 236(d) (8 U.S.C.  
1226(d)) is amended by adding at the end the fol-  
lowing:

20 “(3) NATURE OF DETENTION.—

21 “(A) DEFINITIONS.—In this paragraph:

“(i) ADMINISTRATIVE SEGREGATION.—The term ‘administrative segregation’ means a nonpunitive form of solitary confinement for administrative reasons.

1 “(ii) DISCIPLINARY SEGREGATION.—

2 The term ‘disciplinary segregation’ means  
3 a punitive form of solitary confinement for  
4 disciplinary reasons.

5 “(iii) SERIOUS MENTAL ILLNESS.—

6 The term ‘serious mental illness’ means a  
7 substantial disorder of thought or mood  
8 that significantly impairs judgment, behav-  
9 ior, capacity to recognize reality, or ability  
10 to cope with the ordinary demands of life.

11 “(iv) SOLITARY CONFINEMENT.—The  
12 term ‘solitary confinement’ means cell con-  
13 finement of 22 hours or more per day.

14 “(B) LIMITATIONS ON SOLITARY CONFINEMENT.—

15  
16 “(i) IN GENERAL.—The use of soli-  
17 tary confinement of an alien in custody  
18 pursuant to this section, section 235, or  
19 section 241 shall be limited to situations in  
20 which such confinement—

21 “(I) is necessary—

22 “(aa) to control a threat to  
23 detainees, staff, or the security of  
24 the facility;

1 “(bb) to discipline the alien  
2 for a serious disciplinary infrac-  
3 tion if alternative sanctions  
4 would not adequately regulate  
5 the alien’s behavior; or

6 “(cc) for good order during  
7 the last 24 hours before an alien  
8 is released, removed, or trans-  
9 ferred from the facility;

10 “(II) is limited to the briefest  
11 term and under the least restrictive  
12 conditions practicable and consistent  
13 with the rationale for placement and  
14 with the progress achieved by the  
15 alien; and

16 “(III) complies with the require-  
17 ments set forth in this subparagraph.

18 “(ii) CHILDREN.—Children who are  
19 younger than 18 years of age may not be  
20 placed in solitary confinement.

21 “(iii) SERIOUS MENTAL ILLNESS.—

22 “(I) IN GENERAL.—An alien with  
23 a serious mental illness may not be  
24 placed in involuntary solitary confine-  
25 ment due to mental illness unless—

805

1                   “(aa) such confinement is  
2                   necessary for the alien’s own pro-  
3                   tection; or

4                   “(bb) if the alien requires  
5                   emergency stabilization or poses  
6                   a significant threat to staff or  
7                   others in general population.

8                   “(II) MAXIMUM PERIOD.—An  
9                   alien diagnosed with serious mental  
10                  illness may not be placed in solitary  
11                  confinement for more than 15 days  
12                  unless the Secretary of Homeland Se-  
13                  curity determines that—

14                  “(aa) any less restrictive al-  
15                  ternative is more likely than not  
16                  to cause greater harm to the  
17                  alien than the solitary confine-  
18                  ment period imposed; or

19                  “(bb) the likely harm to the  
20                  alien is not substantial and the  
21                  period of solitary confinement is  
22                  the least restrictive alternative  
23                  necessary to protect the alien,  
24                  other detainees, or others.

25                  “(iv) OWN PROTECTION.—

1                   “(I) IN GENERAL.—Involuntary  
2                   solitary confinement for an alien’s  
3                   own protection may be used only for  
4                   the least amount of time practicable  
5                   and if no readily available and less re-  
6                   strictive alternative will maintain the  
7                   alien’s safety.

8                   “(II) MAXIMUM PERIOD.—An  
9                   alien may not be placed in involuntary  
10                  solitary confinement for the alien’s  
11                  own protection for longer than 15  
12                  days unless the Secretary of Home-  
13                  land Security determines that any less  
14                  restrictive alternative is more likely  
15                  than not to cause greater harm to the  
16                  alien than the solitary confinement pe-  
17                  riod imposed.

18                  “(III) PROHIBITED FACTORS.—  
19                  The Secretary of Homeland Security  
20                  may not rely solely on an alien’s age,  
21                  physical disability, sexual orientation,  
22                  gender identity, race, or religion. The  
23                  Secretary shall make an individualized  
24                  assessment in each case.

1 “(v) MEDICAL CARE.—An alien placed  
2 in solitary confinement—

3 “(I) shall be visited by a medical  
4 professional at least 3 times each  
5 week;

6 “(II) shall receive at least weekly  
7 mental health monitoring by a li-  
8 censed mental health clinician; and

9 “(III) shall be removed from soli-  
10 tary confinement if—

11 “(aa) a mental health clini-  
12 cian determines that such deten-  
13 tion is having a significant nega-  
14 tive impact on the alien’s mental  
15 health; and

16 “(bb) an appropriate alter-  
17 native is available.

18 “(vi) NOTIFICATION; ACCESS TO  
19 COUNSEL.—If an alien is placed in solitary  
20 confinement, the alien—

21 “(I) shall be informed verbally,  
22 and in writing, of the reason for such  
23 confinement and the intended dura-  
24 tion of such confinement, if specified  
25 at the time of initial placement; and

1                   “(II) shall be offered access to  
2                   counsel on the same basis as detainees  
3                   in the general population.

4                   “(vii) LONGER SOLITARY CONFINEMENT PERIODS.—If an alien has been sub-  
5                   ject to involuntary solitary confinement for  
6                   more than 14 consecutive days, the Sec-  
7                   retary of Homeland Security shall conduct  
8                   a timely review to determine whether con-  
9                   tinued placement is justified by an extreme  
10                  disciplinary infraction or is the least re-  
11                  strictive means of protecting the alien or  
12                  others. Any alien held in solitary confine-  
13                  ment for more than 7 days shall be given  
14                  a reasonable opportunity to challenge such  
15                  placement with the detention facility ad-  
16                  ministrator, which will promptly respond to  
17                  such challenge in writing.

18  
19                  “(viii) OVERSIGHT.—The Secretary of  
20                  Homeland Security shall ensure that—

21                         “(I) he or she is regularly in-  
22                         formed about the use of solitary con-  
23                         finement in all facilities at which  
24                         aliens are detained; and



1                   “(II) the Department fully com-  
2                   plies with the provisions under this  
3                   paragraph.

4                   “(C) DISCIPLINARY SEGREGATION.—Dis-  
5                   ciplinary segregation is authorized only pursu-  
6                   ant to the order of a facility disciplinary panel  
7                   following a hearing in which the detainee is de-  
8                   termined to have violated a facility rule.

9                   “(D) ADMINISTRATIVE SEGREGATION.—  
10                  Administrative segregation is authorized only as  
11                  necessary to ensure the safety of the detainee  
12                  or others, the protection of property, or the se-  
13                  curity or good order of the facility. Detainees in  
14                  administrative segregation shall be offered pro-  
15                  gramming opportunities and privileges con-  
16                  sistent with those available in the general popu-  
17                  lation, except where precluded by safety or se-  
18                  curity concerns.”.

19                  (2) ANNUAL REPORT.—The Secretary shall—

20                       (A) collect and compile information regard-  
21                       ing the prevalence, reasons for, and duration of  
22                       solitary confinement in all facilities described in  
23                       paragraph (3);

24                       (B) submit an annual report containing  
25                       the information described in subparagraph (A)

1 to Congress not later than 30 days after the  
2 end of the reporting period; and

3 (C) make the data contained in the report  
4 submitted under subparagraph (B) publicly  
5 available.

6 (3) RULEMAKING.—The Secretary shall adopt  
7 regulations or policies to carry out section 236(d)(3)  
8 of the Immigration and Nationality Act, as amended  
9 by paragraph (1), at all facilities at which aliens are  
10 detained pursuant to section 235, 236, or 241 of  
11 such Act.

12 (c) STIPULATED REMOVAL.—Section 240(d) (8  
13 U.S.C. 1229a) is amended to read as follows:

14 “(d) STIPULATED REMOVAL.—The Attorney General  
15 shall provide by regulation for the entry by an immigration  
16 judge of an order of removal stipulated to by the alien  
17 (or the alien’s representative) and the Service. An immi-  
18 gration judge may enter a stipulated removal order only  
19 upon a finding at an in-person hearing that the stipulation  
20 is voluntary, knowing, and intelligent. A stipulated order  
21 shall constitute a conclusive determination of the alien’s  
22 removability from the United States.”.

1   **SEC. 3718. SANCTIONS FOR COUNTRIES THAT DELAY OR**  
2                   **PREVENT REPATRIATION OF THEIR NATION-**  
3                   **ALS.**

4       Section 243(d) (8 U.S.C. 1253(d)) is amended to  
5 read as follows:

6       “(d) DISCONTINUING GRANTING VISAS TO NATION-  
7 ALS OF COUNTRIES THAT DENY OR DELAY ACCEPTING  
8 ALIENS.—Notwithstanding section 221(c), if the Sec-  
9 retary of Homeland Security determines, in consultation  
10 with the Secretary of State, that the government of a for-  
11 eign country denies or unreasonably delays accepting  
12 aliens who are citizens, subjects, nationals, or residents  
13 of that country after the Secretary asks whether the gov-  
14 ernment will accept an alien under this section, or after  
15 a determination that the alien is inadmissible under para-  
16 graph (6) or (7) of section 212(a), the Secretary of State  
17 shall order consular officers in that foreign country to dis-  
18 continue granting visas, or classes of visas, until the Sec-  
19 retary of Homeland Security notifies the Secretary of  
20 State that the country has accepted the aliens.”.

21   **SEC. 3719. GROSS VIOLATIONS OF HUMAN RIGHTS.**

22       (a) INADMISSIBILITY OF CERTAIN ALIENS.—Section  
23 212(a)(3)(E) (8 U.S.C. 1182(a)(3)(E)) is amended by  
24 striking clause (iii) and inserting the following:

25                   “(iii) COMMISSION OF ACTS OF TOR-  
26                   TURE, EXTRAJUDICIAL KILLINGS, WAR

1 CRIMES, OR WIDESPREAD OR SYSTEMATIC  
2 ATTACKS ON CIVILIANS.—Any alien who  
3 planned, ordered, assisted, aided and abet-  
4 ted, committed, or otherwise participated,  
5 including through command responsibility,  
6 in the commission of—

7 “(I) any act of torture (as de-  
8 fined in section 2340 of title 18,  
9 United States Code);

10 “(II) any extrajudicial killing (as  
11 defined in section 3(a) of the Torture  
12 Victim Protection Act of 1991 (28  
13 U.S.C. 1350 note)) under color of law  
14 of any foreign nation;

15 “(III) a war crime (as defined in  
16 section 2441 of title 18, United States  
17 Code); or

18 “(IV) any of the following acts as  
19 a part of a widespread or systematic  
20 attack directed against a civilian pop-  
21 ulation, with knowledge of the attack:  
22 murder, extermination, enslavement,  
23 forcible transfer of population, arbi-  
24 trary detention, rape, sexual slavery,  
25 enforced prostitution, forced preg-

1                   nancy, enforced sterilization, or any  
2                   other form of sexual violence of com-  
3                   parable gravity; persecution on polit-  
4                   ical racial, national, ethnic, cultural,  
5                   religious, or gender grounds; enforced  
6                   disappearance of persons; or other in-  
7                   humane acts of a similar character in-  
8                   tentionally causing great suffering or  
9                   serious bodily or mental injury,  
10                  is inadmissible.

11                  “(iv) LIMITATION.—Clause (iii) shall  
12                  not apply to an alien if the Secretary of  
13                  Homeland Security or the Attorney Gen-  
14                  eral determine that the actions giving rise  
15                  to the alien’s inadmissibility under such  
16                  clause were committed under duress. In  
17                  determining whether the alien was subject  
18                  to duress, the Secretary may consider,  
19                  among relevant factors, the age of the  
20                  alien at the time such actions were com-  
21                  mitted.”.

22                  (b) DENYING SAFE HAVEN TO FOREIGN HUMAN  
23                  RIGHTS VIOLATORS.—Section 2(a)(2) of the Torture Vic-  
24                  tim Protection Act of 1991 (28 U.S.C. 1350 note) is  
25                  amended—

(1) by inserting after “killing” the following: “, a war crime (as defined in subsections (c) and (d) of section 2441 of title 18, United States Code), a widespread or systematic attack on civilians (as defined in section 212(a)(3)(E)(iii)(IV) of the Immigration and Nationality Act), or genocide (as defined in section 1091(a) of such title 18)”; and

8           (2) by striking “to the individual’s legal rep-  
9       representative” and inserting “to that individual or to  
10      that individual’s legal representative”.

(c) NONAPPLICABILITY OF CONFIDENTIALITY RE-  
QUIREMENT WITH RESPECT TO VISA RECORDS.—The  
President may make public, without regard to the require-  
ments under section 222(f) of the Immigration and Na-  
tionality Act (8 U.S.C. 1202(f)), with respect to confiden-  
tiality of records pertaining to the issuance or refusal of  
visas or permits to enter the United States, the names  
of aliens deemed inadmissible on the basis of section  
212(a)(3)(E)(iii) of such Act, as amended by subsection  
(a).

21 SEC. 3720. REPORTING AND RECORD KEEPING REQUIRE-  
22 MENTS RELATING TO THE DETENTION OF  
23 ALIENS.

24 (a) IN GENERAL.—In order for Congress and the  
25 public to assess the full costs of apprehending, detaining,

1 processing, supervising, and removing aliens, and how the  
2 money Congress appropriates for detention is allocated by  
3 Federal agencies, the Assistant Secretary for Immigration  
4 and Customs and Enforcement (referred to in this section  
5 as the “Assistant Secretary”), the Director of the Execu-  
6 tive Office of Immigration Review, and the Commissioner  
7 responsible for U.S. Customs and Border Protection (re-  
8 ferred to in this section as the “Commissioner”) shall—

9 (1) maintain the information required under  
10 subsections (b), (c), and (d); and

11 (2) submit reports on that information to Con-  
12 gress and make that information available to the  
13 public in accordance with subsection (e).

14 (b) MAINTENANCE OF INFORMATION BY U.S. IMMI-  
15 GRATION AND CUSTOMS ENFORCEMENT.—The Assistant  
16 Secretary shall record and maintain, in the database of  
17 U.S. Immigration and Customs Enforcement relating to  
18 detained aliens, the following information with respect to  
19 each alien detained pursuant to the Immigration and Na-  
20 tionality Act (8 U.S.C. 1101 et seq.):

21 (1) The provision of law that provides specific  
22 authority for the alien’s detention and the beginning  
23 and end dates of the alien’s detention pursuant to  
24 that authority. If the alien’s detention is authorized  
25 by different provisions of law during different peri-

1       ods of time, the Assistant Secretary shall record and  
2       maintain the provision of law that provides authority  
3       for the alien's detention during each such period.

4           (2) The place where the alien was apprehended  
5       or where U.S. Immigration and Customs Enforce-  
6       ment assumed custody of the alien.

7           (3) Each location where U.S. Immigration and  
8       Customs Enforcement detains the alien until the  
9       alien is released from custody or removed from the  
10      United States, including any period of redetention.

11          (4) The gender and age of each detained alien  
12      in the custody of U.S. Immigration and Customs  
13      Enforcement.

14          (5) The number of days the alien is detained,  
15      including the number of days spent in any given de-  
16      tention facility and the total amount of time spent  
17      in detention.

18          (6) The immigration charges that are the basis  
19      for the alien's removal proceedings.

20          (7) The status of the alien's removal pro-  
21      ceedings and each date on which those proceedings  
22      progress from 1 stage of proceeding to another.

23          (8) The length of time the alien was detained  
24      following a final administrative order of removal and  
25      the reasons for the continued detention.



1           (9) The initial custody determination or review  
2       made by U.S. Immigration and Customs Enforce-  
3       ment, including whether the alien received notice of  
4       a custody determination or review and when the cus-  
5       tody determination or review took place.

6           (10) The risk assessment results for the alien,  
7       including if the alien is subject to mandatory cus-  
8       tody or detention.

9           (11) The reason for the alien's release from de-  
10      tention and the conditions of release imposed on the  
11      alien, if applicable.

12      (c) MAINTENANCE OF INFORMATION BY EXECUTIVE  
13      OFFICE OF IMMIGRATION REVIEW.—The Director of the  
14      Executive Office of Immigration Review shall record and  
15      maintain, in the database of the Executive Office of Immi-  
16      gration Review relating to detained aliens in removal pro-  
17      ceedings, the following information with respect to each  
18      such alien:

19           (1) The immigration charges that are the basis  
20      for the alien's removal proceedings, including any re-  
21      vision of the immigration charges and the date of  
22      each such revision.

23           (2) The gender and age of the alien.

1           (3) The status of the alien's removal pro-  
2           ceedings and each date on which those proceedings  
3           progress from one stage of proceeding to another.

4           (4) The statutory basis for any bond hearing  
5           conducted and the outcomes of the bond hearing.

6           (5) Whether each court hearing is conducted in  
7           person, by audio link, or by video conferencing.

8           (6) The date of each attorney entry of appear-  
9           ance before an immigration judge using Form  
10          EOIR-28 and the scope of the appearance to which  
11          the form related.

12          (d) MAINTENANCE OF INFORMATION BY U.S. CUS-  
13          TOMS AND BORDER PROTECTION.—The Commissioner  
14          shall record and maintain in the database of U.S. Customs  
15          and Border Protection relating to detained aliens the fol-  
16          lowing information with respect to each alien detained  
17          pursuant to the Immigration and Nationality Act (8  
18          U.S.C. 1101 et seq.):

19               (1) The provision of law that provides specific  
20               authority for the alien's detention and the beginning  
21               and end dates of the alien's detention.

22               (2) The place where the alien was apprehended.

23               (3) The gender and age of the alien.

24               (4) Each location where U.S. Customs and Bor-  
25               der Protection detains the alien until the alien is re-

1        leased from custody or removed from the United  
2        States, including any period of redetention.

3            (5) The number of days that the alien is de-  
4        tained in the custody of U.S. Customs and Border  
5        Protection.

6            (6) The immigration charges that are the basis  
7        for the alien's removal proceedings while the alien is  
8        in the custody of U.S. Customs and Border Protec-  
9        tion.

10           (7) The initial custody determination by U.S.  
11        Customs and Border Protection, including whether  
12        the alien received notice of a custody determination  
13        or review, when the custody determination or review  
14        took place, and whether U.S. Customs and Border  
15        Protection offered the option of stipulated removal  
16        to a detained alien.

17           (8) The reason for the alien's release from de-  
18        tention and the conditions of release to detention im-  
19        posed on the alien, if applicable.

20        (e) REPORTING REQUIREMENTS.—

21           (1) PERIODIC REPORTS.—The Assistant Sec-  
22        retary, the Director of the Executive Office of Immi-  
23        gration Review, and the Commissioner shall periodi-  
24        cally, but not less frequently than annually, submit  
25        to Congress a report containing a summary of the

1 information required to be maintained by this sec-  
2 tion. Each such report shall include summaries of  
3 national-level data as well as summaries of the infor-  
4 mation required by this section by State and county.

5 (2) OTHER REPORTS.—The Assistant Secretary  
6 shall report to Congress not less frequently than an-  
7 nually on—

8 (A) the number of aliens detained for more  
9 than 3 months, 6 months, 1 year, and 2 years;  
10 and

11 (B) the average period of detention before  
12 receipt of a final administrative order of re-  
13 moval and after receipt of such an order.

14 (3) AVAILABILITY TO PUBLIC.—The reports re-  
15 quired under this subsection and the information for  
16 each alien on which the reports are based shall be  
17 made available to the public without the need to sub-  
18 mit a request under section 552 of title 5, United  
19 States Code (commonly referred to as the “Freedom  
20 of Information Act”).

21 (4) PRIVACY PROTECTIONS.—No alien’s identity  
22 may be disclosed when information described in  
23 paragraph (3) is made publicly available.

24 (f) DEFINITIONS.—In this section:

1           (1) CASE OUTCOME.—The term “case outcome”  
2 includes a grant of relief from deportation under  
3 section 240A of the Immigration and Nationality  
4 Act (8 U.S.C. 1229b), voluntary departure pursuant  
5 to section 240B of that Act (8 U.S.C. 1229c), re-  
6 moval pursuant to section 238 of that Act (8 U.S.C.  
7 1228), judicial termination of proceedings, termi-  
8 nation of proceedings by U.S. Immigration and Cus-  
9 toms Enforcement, cancellation of the notice to ap-  
10 pear, or permission to withdraw application for ad-  
11 mission without any removal order being issued.

12           (2) PLACE WHERE THE ALIEN WAS APPRE-  
13 HENDED.—The term “place where the alien was ap-  
14 prehended” refers to the city, county, and State  
15 where an alien is apprehended.

16           (3) REASON FOR THE ALIEN’S RELEASE FROM  
17 DETENTION.—The term “reason for the alien’s re-  
18 lease from detention” refers to release on bond, on  
19 an alien’s own recognizance, on humanitarian  
20 grounds, after grant of relief, or due to termination  
21 of proceedings or removal.

22           (4) REMOVAL PROCEEDINGS.—The term “re-  
23 moval proceedings” refers to a removal case of any  
24 kind, including expedited removal, administrative re-  
25 moval, stipulated removal, reinstatement, and vol-

1        untary removal and removals in which an applicant  
2        is permitted to withdraw his or her application for  
3        admission.

4            (5) STAGE.—The term “stage”, with respect to  
5        a proceeding, refers to whether the alien is in pro-  
6        ceedings before an immigration judge, the Board of  
7        Immigration Appeals, a United States court of ap-  
8        peals, or on remand from a United States court of  
9        appeals.

10    **SEC. 3721. POWERS OF IMMIGRATION OFFICERS AND EM-**  
11            **PLOYEES AT SENSITIVE LOCATIONS.**

12        Section 287 (8 U.S.C. 1357) is amended by adding  
13    at the end the following:

14        “(i)(1) In order to ensure individuals’ access to sen-  
15    sitive locations, this subsection applies to enforcement ac-  
16    tions by officers and agents of U.S. Immigration and Cus-  
17    toms Enforcement and officers and agents of U.S. Cus-  
18    toms and Border Protection.

19        “(2)(A) An enforcement action may not take place  
20    at, or be focused on, a sensitive location, except as follows:

21            “(i) Under exigent circumstances.

22            “(ii) If prior approval is obtained.

23        “(B) If an enforcement action is taking place pursu-  
24    ant to subparagraph (A) and the condition permitting the

1 enforcement action ceases, the enforcement action shall  
2 cease.

3 “(3)(A) When proceeding with an enforcement action  
4 at or near a sensitive location, officers and agents referred  
5 to in paragraph (1) shall conduct themselves as discreetly  
6 as possible, consistent with officer and public safety, and  
7 make every effort to limit the time at or focused on the  
8 sensitive location.

9 “(B) If, in the course of an enforcement action that  
10 is not initiated at or focused on a sensitive location, offi-  
11 cers or agents are led to or near a sensitive location, and  
12 no exigent circumstance exists, such officers or agents  
13 shall conduct themselves in a discreet manner, maintain  
14 surveillance, and immediately consult their supervisor be-  
15 fore taking any further enforcement action, in order to  
16 determine whether such action should be discontinued.

17 “(C) This section not apply to the transportation of  
18 an individual apprehended at or near a land or sea border  
19 to a hospital or healthcare provider for the purpose of pro-  
20 viding such individual medical care.

21 “(4)(A) Each official specified in subparagraph (B)  
22 shall ensure that the employees under the supervision of  
23 such official receive annual training on compliance with  
24 the requirements of this subsection in enforcement actions  
25 at or focused on sensitive locations and enforcement ac-

1 tions that lead officers or agents to or near a sensitive  
2 location.

3 “(B) The officials specified in ths subparagraph are  
4 the following:

5 “(i) The Chief Counsel of U.S. Immigration  
6 and Customs Enforcement.

7 “(ii) The Field Office Directors of U.S. Immi-  
8 gration and Customs Enforcement.

9 “(iii) Each Special Agent in Charge of U.S. Im-  
10 migration and Customs Enforcement.

11 “(iv) Each Chief Patrol Agent of U.S. Customs  
12 and Border Protection.

13 “(v) The Director of Field Operations of U.S.  
14 Customs and Border Protection.

15 “(vi) The Director of Air and Marine Oper-  
16 ations of U.S. Customs and Border Protection.

17 “(vii) The Internal Affairs Special Agent in  
18 Charge of U.S. Customs and Border Protection.

19 “(5)(A) The Director of U.S. Immigration and Cus-  
20 toms Enforcement and the Commissioner of U.S. Customs  
21 and Border Protection shall each submit to the appro-  
22 priate committees of Congress each year a report on the  
23 enforcement actions undertaken by U.S. Immigration and  
24 Customs Enforcement and U.S. Customs and Border Pro-



1 taction, respectively, during the preceding year that were  
2 covered by this subsection.

3 “(B) Each report on an agency for a year under this  
4 paragraph shall set forth the following:

5 “(i) The number of enforcement actions at or  
6 focused on a sensitive location.

7 “(ii) The number of enforcement actions where  
8 officers or agents were subsequently led to or near  
9 a sensitive location.

10 “(iii) The date, site, and State, city, and county  
11 in which each enforcement action covered by clause  
12 (i) or (ii) occurred.

13 “(iv) The component of the agency responsible  
14 for each such enforcement action.

15 “(v) A description of the intended target of  
16 each such enforcement action.

17 “(vi) The number of individuals, if any, ar-  
18 rested or taken into custody through each such en-  
19 forcement action.

20 “(vii) The number of collateral arrests, if any,  
21 from each such enforcement action and the reasons  
22 for each such arrest.

23 “(viii) A certification of whether the location  
24 administrator was contacted prior to, during, or  
25 after each such enforcement action.

1       “(C) Each report under this paragraph shall be made  
2 available to the public without the need to submit a re-  
3 quest under section 552 of title 5, United States Code  
4 (commonly referred to as the ‘Freedom of Information  
5 Act’).

6       “(6) In this subsection:

7           “(A) The term ‘appropriate committees of Con-  
8 gress’ means—

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

11              “(ii) the Committee on the Judiciary of the  
12              Senate;

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

15              “(iv) the Committee on the Judiciary of  
16              the House of Representatives.

17       “(B) The term ‘enforcement action’ means an  
18 arrest, interview, search, or surveillance for the pur-  
19 poses of immigration enforcement, and includes an  
20 enforcement action at, or focused on, a sensitive lo-  
21 cation that is part of a joint case led by another law  
22 enforcement agency.

23       “(C) The term ‘exigent circumstances’ means a  
24 situation involving the following:

1           “(i) The imminent risk of death, violence,  
2           or physical harm to any person, including a sit-  
3           uation implicating terrorism or the national se-  
4           curity of the United States in some other man-  
5           ner.

6           “(ii) The immediate arrest or pursuit of a  
7           dangerous felon, terrorist suspect, or other indi-  
8           vidual presenting an imminent danger or public  
9           safety risk.

10           “(iii) The imminent risk of destruction of  
11           evidence that is material to an ongoing criminal  
12           case.

13           “(D) The term ‘prior approval’ means the fol-  
14           lowing:

15           “(i) In the case of officers and agents of  
16           U.S. Immigration and Customs Enforcement,  
17           prior written approval for a specific, targeted  
18           operation from one of the following officials:

19                   “(I) The Assistant Director of Oper-  
20                   ations, Homeland Security Investigations.

21                   “(II) The Executive Associate Direc-  
22                   tor of Homeland Security Investigations.

23                   “(III) The Assistant Director for  
24                   Field Operations, Enforcement, and Re-  
25                   moval Operations.

1                   “(IV) The Executive Associate Direc-  
2                   tor for Field Operations, Enforcement, and  
3                   Removal Operations.

4                   “(ii) In the case of officers and agents of  
5                   U.S. Customs and Border Protection, prior  
6                   written approval for a specific, targeted oper-  
7                   ation from one of the following officials:

8                   “(I) A Chief Patrol Agent.

9                   “(II) The Director of Field Oper-  
10                  ations.

11                  “(III) The Director of Air and Marine  
12                  Operations

13                  “(IV) The Internal Affairs Special  
14                  Agent in Charge.

15                  “(E) The term ‘sensitive location’ includes the  
16                  following:

17                  “(i) Hospitals and health clinics.

18                  “(ii) Public and private schools (including  
19                  pre-schools, primary schools, secondary schools,  
20                  postsecondary schools (including colleges and  
21                  universities), and other institutions of learning  
22                  such as vocational or trade schools).

23                  “(iii) Organizations assisting children,  
24                  pregnant women, victims of crime or abuse, or  
25                  individuals with mental or physical disabilities.

1 “(iv) Churches, synagogues, mosques, and  
2 other places of worship, such as buildings  
3 rented for the purpose of religious services.

4 “(v) Such other locations as the Secretary  
5 of Homeland Security shall specify for purposes  
6 of this subsection.”.

7 **Subtitle H—Protection of Children**  
8 **Affected by Immigration En-**  
9 **forcement**

10 **SEC. 3801. SHORT TITLE.**

11 This subtitle may be cited as the “Humane Enforce-  
12 ment and Legal Protections for Separated Children Act”  
13 or the “HELP Separated Children Act”.

14 **SEC. 3802. DEFINITIONS.**

15 In this subtitle:

16 (1) APPREHENSION.—The term “apprehension”  
17 means the detention or arrest by officials of the De-  
18 partment or cooperating entities.

19 (2) CHILD.—The term “child” means an indi-  
20 vidual who has not attained 18 years of age.

21 (3) CHILD WELFARE AGENCY.—The term  
22 “child welfare agency” means a State or local agen-  
23 cy responsible for child welfare services under sub-  
24 titles B and E of title IV of the Social Security Act  
25 (42 U.S.C. 601 et seq.).

1           (4) COOPERATING ENTITY.—The term “cooper-  
2       ating entity” means a State or local entity acting  
3       under agreement with the Secretary.

4           (5) DETENTION FACILITY.—The term “deten-  
5       tion facility” means a Federal, State, or local gov-  
6       ernment facility, or a privately owned and operated  
7       facility, that is used, in whole or in part, to hold in-  
8       dividuals under the authority of the Director of U.S.  
9       Immigration and Customs Enforcement, including  
10      facilities that hold such individuals under a contract  
11      or agreement with the Director.

12          (6) IMMIGRATION ENFORCEMENT ACTION.—The  
13      term “immigration enforcement action” means the  
14      apprehension of 1 or more individuals whom the De-  
15      partment has reason to believe are removable from  
16      the United States by the Secretary or a cooperating  
17      entity.

18          (7) PARENT.—The term “parent” means a bio-  
19      logical or adoptive parent of a child, whose parental  
20      rights have not been relinquished or terminated  
21      under State law or the law of a foreign country, or  
22      a legal guardian under State law or the law of a for-  
23      eign country.

1 **SEC. 3803. APPREHENSION PROCEDURES FOR IMMIGRA-**  
2 **TION ENFORCEMENT-RELATED ACTIVITIES.**

3 (a) APPREHENSION PROCEDURES.—In any immigra-  
4 tion enforcement action, the Secretary and cooperating en-  
5 tities shall—

6 (1) as soon as possible, but generally not later  
7 than 2 hours after an immigration enforcement ac-  
8 tion, inquire whether an individual is a parent or  
9 primary caregiver of a child in the United States  
10 and provide any such individuals with—

11 (A) the opportunity to make a minimum of  
12 2 telephone calls to arrange for the care of such  
13 child in the individual's absence; and

14 (B) contact information for—

15 (i) child welfare agencies and family  
16 courts in the same jurisdiction as the child;  
17 and

18 (ii) consulates, attorneys, and legal  
19 service providers capable of providing free  
20 legal advice or representation regarding  
21 child welfare, child custody determinations,  
22 and immigration matters;

23 (2) notify the child welfare agency with jurisdic-  
24 tion over the child if the child's parent or primary  
25 caregiver is unable to make care arrangements for

1       the child or if the child is in imminent risk of seri-  
2       ous harm;

3           (3) ensure that personnel of the Department  
4       and cooperating entities do not, absent medical ne-  
5       cessity or extraordinary circumstances, compel or re-  
6       quest children to interpret or translate for interviews  
7       of their parents or of other individuals who are en-  
8       countered as part of an immigration enforcement ac-  
9       tion; and

10          (4) ensure that any parent or primary caregiver  
11       of a child in the United States—

12           (A) absent medical necessity or extraor-  
13       dinary circumstances, is not transferred from  
14       his or her area of apprehension until the indi-  
15       vidual—

16           (i) has made arrangements for the  
17       care of such child; or

18           (ii) if such arrangements are unavail-  
19       able or the individual is unable to make  
20       such arrangements, is informed of the care  
21       arrangements made for the child and of a  
22       means to maintain communication with the  
23       child;



1 (B) absent medical necessity or extraor-  
2 dinary circumstances, and to the extent prac-  
3 ticable, is placed in a detention facility either—

4 (i) proximate to the location of appre-  
5 hension; or

6 (ii) proximate to the individual's ha-  
7 bitual place of residence; and

8 (C) receives due consideration of the best  
9 interests of such child in any decision or action  
10 relating to his or her detention, release, or  
11 transfer between detention facilities.

12 (b) REQUESTS TO STATE AND LOCAL ENTITIES.—  
13 If the Secretary requests a State or local entity to hold  
14 in custody an individual whom the Department has reason  
15 to believe is removable pending transfer of that individual  
16 to the custody of the Secretary or to a detention facility,  
17 the Secretary shall also request that the State or local en-  
18 tity provide the individual the protections specified in  
19 paragraphs (1) and (2) of subsection (a), if that individual  
20 is found to be the parent or primary caregiver of a child  
21 in the United States.

22 (c) PROTECTIONS AGAINST TRAFFICKING PRE-  
23 SERVED.—The provisions of this section shall not be con-  
24 strued to impede, delay, or in any way limit the obligations  
25 of the Secretary, the Attorney General, or the Secretary

1 of Health and Human Services under section 235 of the  
2 William Wilberforce Trafficking Victims Protection Reau-  
3 thorization Act of 2008 (8 U.S.C. 1232) or section 462  
4 of the Homeland Security Act of 2002 (6 U.S.C. 279).

5 **SEC. 3804. ACCESS TO CHILDREN, STATE AND LOCAL**  
6 **COURTS, CHILD WELFARE AGENCIES, AND**  
7 **CONSULAR OFFICIALS.**

8 At all detention facilities, the Secretary shall—

9 (1) prominently post in a manner accessible to  
10 detainees and visitors and include in detainee hand-  
11 books information on the protections of this subtitle  
12 as well as information on potential eligibility for pa-  
13 role or release;

14 (2) absent extraordinary circumstances, ensure  
15 that individuals who are detained by the Department  
16 and are parents of children in the United States  
17 are—

18 (A) permitted regular phone calls and con-  
19 tact visits with their children;

20 (B) provided with contact information for  
21 child welfare agencies and family courts in the  
22 relevant jurisdictions;

23 (C) able to participate fully and, to the ex-  
24 tent possible, in person in all family court pro-

1           ceedings and any other proceedings that may  
2           impact their right to custody of their children;

3           (D) granted free and confidential telephone  
4           calls to relevant child welfare agencies and fam-  
5           ily courts as often as is necessary to ensure  
6           that the best interest of their children, includ-  
7           ing a preference for family unity whenever ap-  
8           propriate, can be considered in child welfare  
9           agency or family court proceedings;

10          (E) able to fully comply with all family  
11          court or child welfare agency orders impacting  
12          custody of their children;

13          (F) provided access to United States pass-  
14          port applications or other relevant travel docu-  
15          ment applications for the purpose of obtaining  
16          travel documents for their children;

17          (G) afforded timely access to a notary pub-  
18          lic for the purpose of applying for a passport  
19          for their children or executing guardianship or  
20          other agreements to ensure the safety of their  
21          children; and

22          (H) granted adequate time before removal  
23          to obtain passports, apostilled birth certificates,  
24          travel documents, and other necessary records  
25          on behalf of their children if such children will

1           accompany them on their return to their coun-  
2           try of origin or join them in their country of or-  
3           igin; and

4           (3) where doing so would not impact public  
5           safety or national security, facilitate the ability of  
6           detained alien parents and primary caregivers to  
7           share information regarding travel arrangements  
8           with their consulate, children, child welfare agencies,  
9           or other caregivers in advance of the detained alien  
10          individual's departure from the United States.

11 **SEC. 3805. MANDATORY TRAINING.**

12          The Secretary, in consultation with the Secretary of  
13          Health and Human Services, the Secretary of State, the  
14          Attorney General, and independent child welfare and fam-  
15          ily law experts, shall develop and provide training on the  
16          protections required under sections 3803 and 3804 to all  
17          personnel of the Department, cooperating entities, and de-  
18          tention facilities operated by or under agreement with the  
19          Department who regularly engage in immigration enforce-  
20          ment actions and in the course of such actions come into  
21          contact with individuals who are parents or primary care-  
22          givers of children in the United States.

1   **SEC. 3806. RULEMAKING.**

2           Not later than 180 days after the date of the enact-  
3   ment of this Act, the Secretary shall promulgate regula-  
4   tions to implement sections 3803 and 3804 of this Act.

5   **SEC. 3807. SEVERABILITY.**

6           If any provision of this subtitle or amendment made  
7   by this subtitle, or the application of a provision or amend-  
8   ment to any person or circumstance, is held to be uncon-  
9   stitutional, the remainder of this subtitle and amendments  
10  made by this subtitle, and the application of the provisions  
11  and amendment to any person or circumstance, shall not  
12  be affected by the holding.

13   **Subtitle I—Providing Tools to Ex-**  
14       **change Visitors and Exchange**  
15       **Visitor Sponsors to Protect Ex-**  
16       **change Visitor Program Partici-**  
17       **pants and Prevent Trafficking**

18   **SEC. 3901. DEFINITIONS.**

19           (a) IN GENERAL.—Except as otherwise provided by  
20  this subtitle, the terms used in this subtitle shall have the  
21  same meanings, respectively, as are given those terms in  
22  section 3 of the Fair Labor Standards Act of 1938 (29  
23  U.S.C. 203), except that the term “employer” shall also  
24  include a prospective employer seeking to hire exchange  
25  visitors with which the sponsor has a contractual relation-  
26  ship.

1 (b) OTHER DEFINITIONS.—

2 (1) EXCHANGE VISITOR.—The term “exchange  
3 visitor” means a foreign national who is inquiring  
4 about or applying to participate in the exchange vis-  
5 itor program or who has successfully applied and  
6 has completed or is completing an exchange visitor  
7 programs not funded by the United States Govern-  
8 ment as governed by sections 2.22, 62.24, 62.30,  
9 62.31, and 62.32 of title 22, Code of Federal Regu-  
10 lations.

11 (2) EXCHANGE VISITOR PROGRAM.—The term  
12 “exchange visitor program” means the international  
13 exchange program administered by the Department  
14 of State to implement the Mutual Educational and  
15 Cultural Exchange Act of 1961 (22 U.S.C. 2451 et  
16 seq.), by means of educational and cultural pro-  
17 grams.

18 (3) EXCHANGE VISITOR PROGRAM RECRUIT-  
19 MENT ACTIVITIES.—The term “exchange visitor pro-  
20 gram recruitment activities” means activities related  
21 to recruiting, soliciting, transferring, providing, ob-  
22 taining, or facilitating participation of individuals  
23 who reside outside the United States in an exchange  
24 visitor program including when such activity occurs  
25 wholly outside the United States.

1           (4) EXCHANGE VISITOR PROGRAM SPONSOR;  
2       SPONSOR.—The term “exchange visitor program  
3       sponsor” or “sponsor” means a legal entity des-  
4       ignated by the Secretary of State, in the Secretary’s  
5       discretion, to conduct an exchange visitor program  
6       governed by sections 62.22, 62.24, 62.30, 62.31, and  
7       62.32 of title 22, Code of Federal Regulations).

8           (5) FOREIGN ENTITY.—The term “foreign enti-  
9       ty” means a person contracted by a sponsor to en-  
10      gage in exchange visitor program recruitment activi-  
11      ties on the sponsor’s behalf and any subcontractors  
12      thereof.

13          (6) HOST ENTITY.—The term “host entity”  
14      means “host organization”, “primary or secondary  
15      accredited educational institution”, “camp facility”,  
16      “host family”, or “employer/host employer” as used  
17      in sections 62.22, 62.24, 62.30, 62.31, and 62.32 of  
18      title 22, Code of Federal Regulations, respectively.

19          (7) REGULATIONS.—Any reference to any pro-  
20      vision of regulations shall include any successor pro-  
21      vision addressing the same subject matter.

22   **SEC. 3902. DISCLOSURE.**

23          (a) REQUIREMENT FOR DISCLOSURE AT TIME OF  
24      EXCHANGE VISITOR PROGRAM RECRUITMENT ACTIV-  
25      ITY.—Any person who engages in exchange visitor pro-

1 gram recruitment activity shall develop certain informa-  
2 tion, previously approved by and on file with the exchange  
3 visitor program sponsor, to be disclosed in writing in  
4 English to the exchange visitor before the exchange visitor  
5 pays fees described in section 3904, other than refundable  
6 fees and a reasonable non-refundable deposit, or otherwise  
7 detrimentally relies on information provided by an ex-  
8 change program sponsor or foreign entity. This informa-  
9 tion shall be made available to the Secretary of State, or  
10 an exchange visitor requesting his or her own file, within  
11 5 business days of request, consistent with program regu-  
12 lations in part 62 of title 22, Code of Federal Regulations.  
13 Not later than 18 months after the date of the enactment  
14 of this Act, the Secretary of State shall, in consultation  
15 with the Secretary of Labor, amend such regulations to  
16 reflect the information to be disclosed, including the fol-  
17 lowing:

18 (1) The identity and address of the exchange  
19 visitor program sponsor, host entity, and any foreign  
20 entity with authority to charge fees and costs under  
21 section 3904.

22 (2) All assurances and terms and conditions of  
23 employment, from the prospective host entity of the  
24 exchange visitor, including place and period of em-  
25 ployment, job duties, number of work hours, wages



1       and compensation, and any deductions from wages  
2       and benefits, including deductions for housing and  
3       transportation. Nothing in this paragraph shall be  
4       construed to permit any charge, deduction, or ex-  
5       pense prohibited by this or any other law.

6           (3) A copy of the prospective agreement be-  
7       tween the exchange visitor program sponsor, ex-  
8       change visitor, and the host entity.

9           (4) Information regarding the terms and condi-  
10      tions of the nonimmigrant status under which the  
11      exchange visitor is to be admitted, and the period of  
12      stay in the United States allowed for such non-  
13      immigrant status.

14          (5) A copy of the fee disclosure form as de-  
15      scribed in section 3904(d) listing the mandatory and  
16      optional costs or expenses to be charged to the ex-  
17      change visitor.

18          (6) The existence of any labor organizing effort,  
19      collective bargaining agreement, labor contract,  
20      strike, lockout, or other labor dispute at the host en-  
21      tity.

22          (7) Whether and the extent to which exchange  
23      visitors will be compensated through workers' com-  
24      pensation, private insurance, or otherwise for inju-

1       ries or death, including work-related injuries and  
2       death, during the period of employment.

3           (8) A description of the sanctions the exchange  
4       visitor program sponsor is currently subject to, if  
5       any, as imposed by the Department of State.

6           (9) A statement in a form specified by the Sec-  
7       retary of State—

8           (A) stating that in accordance with guide-  
9       lines and regulations promulgated by the Sec-  
10      retary —

11           (i) the costs and fees charged by the  
12      exchange program sponsor, foreign entity,  
13      and host entity do not exceed those per-  
14      mitted by section 3904 and are legal under  
15      the laws of the United States and the  
16      home country of the exchange visitor; and

17           (ii) the exchange visitor program  
18      sponsor, foreign entity, or host entity may  
19      bear costs or fees not provided for in sec-  
20      tion 3904, but that fees under that section  
21      cannot be passed along to the exchange  
22      visitor.

23           (10) Any education or training to be provided  
24      or required, other than education or training pro-  
25      vided in accordance with section 62.10 (b) and (c)

1 of title 22, Code of Federal Regulations, as “pre-ar-  
2 rival information” or “orientation” and additional  
3 orientation and training requirements as described  
4 in each relevant category under sections 62.22,  
5 62.24, 62.30, 62.31, and 62.32 of that title.

6 (11) A clear statement explaining that—

7 (A) except as provided in subparagraph  
8 (B), no additional significant requirements or  
9 significant changes may be made to the original  
10 contract signed with a handwritten, electronic,  
11 or digital pin code signature by the exchange  
12 visitor without at least 24 hours to consider  
13 such changes and the specific consent of the ex-  
14 change visitor, obtained voluntarily and without  
15 threat of penalty; and

16 (B) changes may be made to the conditions  
17 of employment contained in the original con-  
18 tract even if the exchange visitor has not had  
19 24 hours to consider such changes, provided the  
20 exchange visitor has specifically consented to  
21 the changes, voluntarily and without threat of  
22 penalty, and such changes must be implemented  
23 without giving the exchange visitor 24 hours to  
24 consider them in order to protect the health or  
25 welfare of the exchange visitor.

1       (b) REQUIREMENT FOR RULES.—The Secretary of  
2 State shall define by rule or guidance what constitutes  
3 “refundable fees” and a “reasonable non-refundable de-  
4 posit” for the purpose subsection (a).

5       (c) RELATIONSHIP TO LABOR AND EMPLOYMENT  
6 LAWS.—Nothing in the disclosure required by subsection  
7 (a) shall constitute a legal conclusion as to the exchange  
8 visitor’s status or rights under the labor and employment  
9 laws.

10       (d) PROHIBITION ON FALSE AND MISLEADING IN-  
11 FORMATION AND CERTAIN FEES.—No exchange visitor  
12 program sponsor, foreign entity, or host entity who en-  
13 gages in any exchange visitor program activity shall know-  
14 ingly provide materially false or misleading information to  
15 any exchange visitor concerning any matter required to  
16 be disclosed under subsection (a). Charging fees for serv-  
17 ices not provided or assessing fees that exceed the  
18 amounts established by the Secretary of State pursuant  
19 to section 3904 is a violation of this section. The dis-  
20 closure required by this section is a document concerning the  
21 proper administration of a matter within the jurisdiction  
22 of a department or agency of the United States for the  
23 purposes of section 1519 of title 18, United States Code,  
24 and other provisions of such title.

1 (e) PUBLIC AVAILABILITY OF INFORMATION.—The  
2 Secretary of State shall amend its regulations at part 62  
3 of title 22, Code of Federal Regulations, to require spon-  
4 sors to make publicly available, including on their websites  
5 and in recruiting materials, information regarding fees,  
6 costs, and services associated with their exchange visitor  
7 programs, including foreign entity names and contact  
8 points, and other factors relevant to exchange visitors'  
9 choice of sponsor or foreign entity.

10 **SEC. 3903. PROHIBITION ON DISCRIMINATION.**

11 (a) IN GENERAL.—It shall be unlawful for an ex-  
12 change visitor program sponsor, foreign entity, or host en-  
13 tity to fail or refuse to select, hire, discharge, intimidate,  
14 threaten, restrain, coerce, or blacklist any individual or  
15 otherwise discriminate against an individual with respect  
16 to compensation, terms, conditions, or privileges of em-  
17 ployment, because of such individual's race, color, creed,  
18 sex, national origin, religion, age, or disability.

19 (b) DETERMINATIONS OF DISCRIMINATION.—For the  
20 purposes of determining the existence of unlawful dis-  
21 crimination under subsection (a)—

22 (1) in the case of a claim of discrimination  
23 based on race, color, sex, national origin, or religion,  
24 the same legal standards shall apply as are applica-

1 ble under title VII of the Civil Rights Act of 1964  
2 (42 U.S.C. 2000e et seq.);

3 (2) in the case of a claim of discrimination  
4 based on age, the same legal standards shall apply  
5 as are applicable under the Age Discrimination in  
6 Employment Act of 1967 (29 U.S.C. 621 et seq.);  
7 and

8 (3) in the case of a claim of discrimination  
9 based on disability, the same legal standards shall  
10 apply as are applicable under title I of the Ameri-  
11 cans With Disabilities Act of 1990 as amended (42  
12 U.S.C. 12111 et seq.).

13 **SEC. 3904. FEES.**

14 (a) IN GENERAL.—Not later than 2 years after the  
15 date of the enactment of this Act, the Secretary of State,  
16 in consultation with the Secretary of Labor, shall promul-  
17 gate regulations to set limits on the mandatory fees  
18 charged by exchange visitor program sponsors, host enti-  
19 ties, and their foreign entities to the exchange visitor. In  
20 promulgating such regulations, the Secretary of State  
21 shall conduct public meetings with exchange visitor pro-  
22 gram sponsors, organizations representing exchange visi-  
23 tors, and members of the public with expertise in public  
24 diplomacy, educational and cultural exchange, labor mar-  
25 kets, labor relations, migration, civil rights, human rights,

1 and prohibiting human trafficking. The Secretary of State  
2 may, in the Secretary's discretion, consider factors includ-  
3 ing what costs are within the control of sponsors, dif-  
4 ferences among programs and countries, level and amount  
5 of educational and cultural activities included, and services  
6 rendered.

7 (b) MAXIMUM FEES.—It shall be unlawful for any  
8 person to charge a fee higher than the maximum allowable  
9 fee as established by regulations promulgated under sub-  
10 section (a), and any person who charges a higher fee shall  
11 be liable under this subtitle. If a fee higher than the max-  
12 imum is charged by a sponsor or foreign entity, the spon-  
13 sor shall be liable. If a fee higher than the maximum allow-  
14 able is charged by the host entity or a host entity's agent,  
15 the host entity shall be liable.

16 (c) UPDATE OF MAXIMUM FEES.—The Secretary of  
17 State shall update the maximum allowable fees described  
18 in subsection (a) in response to changing economic condi-  
19 tions and other factors as needed.

20 (d) FEE TRANSPARENCY.—The Secretary of State  
21 shall amend its regulations at part 62 of title 22, Code  
22 of Federal Regulations, to require exchange visitor pro-  
23 gram sponsors to—

24 (1) provide the Department of State annually  
25 with an itemized list of fees charged to exchange vis-

1       itor program participants including by their foreign  
2       entities, subcontractors, or foreign entity's agents;  
3       and

4               (2) require a 3-party document signed by the  
5       exchange visitor, foreign entity, and sponsor that  
6       outlines a basic level fee structure and itemizes man-  
7       datory and optional fees.

8       **SEC. 3905. ANNUAL NOTIFICATION.**

9       (a) ANNUAL EXCHANGE VISITOR PROGRAM SPONSOR  
10      NOTIFICATION.—

11           (1) IN GENERAL.—Subject to paragraph (2),  
12      prior to engaging in any exchange visitor program  
13      activity, any person who seeks to be an exchange vis-  
14      itor program sponsor shall be designated by the Sec-  
15      retary of State pursuant to regulations that the Sec-  
16      retary of State has prescribed or shall prescribe  
17      after the date of the enactment of this Act.

18           (2) NOTIFICATION.—Each exchange visitor pro-  
19      gram sponsor shall notify the Secretary of State, not  
20      less frequently than once every year, of the identity  
21      of any third party, agent, or exchange visitor pro-  
22      gram sponsor employee involved in any exchange vis-  
23      itor program recruitment activity for, or on behalf  
24      of, the exchange visitor program sponsor.



1           (3) PERSONAL JURISDICTION OVER FOREIGN  
2 ENTITIES.—As a condition of initial and continued  
3 registration, each program sponsor shall obtain a  
4 written and signed agreement from any foreign enti-  
5 ty. In that agreement, the foreign entity shall stipu-  
6 late and agree, as a condition for receiving any pay-  
7 ment or compensation for performing any work or  
8 service for the program sponsor, that the laws of the  
9 United States shall govern any and all disputes  
10 among and between the parties or the United States,  
11 including any enforcement actions, and that any dis-  
12 pute or enforcement action shall be brought in the  
13 United States District Court for the District of Co-  
14 lumbia. The agreement shall be in such form and  
15 contain such other information as the Secretary of  
16 State shall prescribe.

17           (4) NONCOMPLIANCE NOTIFICATION.—An host  
18 entity shall notify the Secretary of State upon gain-  
19 ing knowledge of noncompliance with this subtitle by  
20 an exchange visitor program sponsor. An exchange  
21 visitor program sponsor shall notify the Secretary of  
22 State upon gaining knowledge of noncompliance with  
23 this subtitle by a host entity or foreign entity.

24           (b) REGULATIONS.—Not later than 180 days after  
25 the date of the enactment of this Act, the Secretary of

1 State shall amend its regulations at part 62 of title 22,  
2 Code of Federal Regulations, regarding the annual ex-  
3 change visitor program sponsor notification.

4 (c) REFUSAL TO ISSUE AND REVOCATION OF DES-  
5 IGNATION.—The Secretary of State shall amend its regu-  
6 lations at part 62 of title 22, Code of Federal Regulations,  
7 to include the following bases for refusing to issue or  
8 renew, or for revoking a sponsor's designation for a period  
9 of not greater than 5 years:

10 (1) The applicant for, or holder of, the designa-  
11 tion has knowingly made a material misrepresenta-  
12 tion in the application for such designation.

13 (2) The applicant for, or holder of, the designa-  
14 tion has committed any felony under State or Fed-  
15 eral law or any crime involving fraud, robbery, brib-  
16 ery, extortion, embezzlement, grand larceny, bur-  
17 glary, arson, violation of narcotics laws, murder,  
18 rape, trafficking in persons, assault with intent to  
19 kill, assault which inflicts grievous bodily injury,  
20 prostitution, peonage, or smuggling or harboring in-  
21 dividuals who have entered the United States ille-  
22 gally.

23 (3) The applicant for, or holder of, the designa-  
24 tion has committed any crime relating to gambling,  
25 or to the sale, distribution, or possession of alcoholic

1       beverages, in connection with or incident to any ex-  
2       change visitor recruitment activities.

3           (4) Such other criteria as the Secretary of State  
4       may, in the Secretary's discretion, establish.

5   **SEC. 3906. BONDING REQUIREMENT.**

6       (a) IN GENERAL.—The Secretary of State may as-  
7       sess a bond amount sufficient to ensure the ability of a  
8       sponsor to discharge its responsibilities and to ensure pro-  
9       tection of exchange visitors, including wages or stipends.  
10      In requiring a sponsor to post the bond, the Secretary of  
11      State shall take into account the degree to which the spon-  
12      sor's assets can be reached by United States courts.

13      (b) REGULATIONS.—The Secretary of State, by regu-  
14      lation, shall establish the conditions under which the bond  
15      amount is determined, paid, and forfeited, which shall in-  
16      clude the sponsor's history of compliance.

17      (c) RELATIONSHIP TO OTHER REMEDIES.—The bond  
18      requirements and forfeiture of the bond under this section  
19      shall be in addition to or, pursuant to court order, in con-  
20      junction with, other remedies under 3910 or any other  
21      provision of law.

22   **SEC. 3907. MAINTENANCE OF LISTS.**

23      (a) IN GENERAL.—The Secretary of State shall work  
24      with the Secretary of Homeland Security to ensure that  
25      the information described in paragraphs (1) through (4)

1 of subsection (b) is included on the foreign entity list kept  
2 and updated pursuant to section 3607 and shall share that  
3 list with the Department of Labor.

4 (b) INFORMATION.—Not later than 1 year after the  
5 date of the enactment of this Act, each sponsor shall com-  
6 pile and share with the Secretary of State on a regular  
7 basis a list that includes the following information:

8 (1) The countries from which the sponsor re-  
9 cruits.

10 (2) The host entities for whom the sponsor re-  
11 cruits.

12 (3) The occupations for which the sponsor re-  
13 cruits.

14 (4) The States where recruited exchange visi-  
15 tors are employed.

16 (c) LIMITATION ON PUBLIC AVAILABILITY.—Neither  
17 the Secretary of State nor the Secretary of Homeland Se-  
18 curity shall make the information described in paragraphs  
19 (1) through (4) of subsection (b) public as part of the list  
20 described in section 3607.

21 **SEC. 3908. AMENDMENT TO THE IMMIGRATION AND NA-**  
22 **TIONALITY ACT.**

23 Section 214 (8 U.S.C. 1184), as amended by title IV,  
24 is further amended by adding at the end the following:

1 “(bb) A visa shall not be issued under section  
2 101(a)(15) until the consular officer—

3 “(1) has confirmed that the applicant has re-  
4 ceived, read, and understood the information and re-  
5 sources pamphlet required by section 202 of the Wil-  
6 liam Wilberforce Trafficking Victims Protection Re-  
7 authorization Act of 2008 (8 U.S.C. 1375b); and

8 “(2) has reviewed and made a part of the visa  
9 file the exchange visitor program sponsor disclosures  
10 required by section 3902 of the Border Security,  
11 Economic Opportunity, and Immigration Moderniza-  
12 tion Act, including whether the exchange visitor pro-  
13 gram sponsor is designated pursuant to that sec-  
14 tion.”.

15 **SEC. 3909. RESPONSIBILITIES OF SECRETARY OF STATE.**

16 (a) IN GENERAL.—The Secretary of State shall en-  
17 sure that each United States diplomatic mission has a per-  
18 son who is responsible for receiving information from any  
19 exchange visitor who has been subject to violations of this  
20 subtitle.

21 (b) PROVISION OF INFORMATION.—The responsible  
22 person referred to in subsection (a) shall ensure that the  
23 information received is provided to the Department of  
24 State. The Department of State may share that informa-  
25 tion as necessary with the Department of Justice, the De-

1 partment of Labor, and any other relevant Federal agen-  
2 cy.

3 (c) MECHANISMS.—The Attorney General and the  
4 Secretary of State shall ensure that there is a mechanism  
5 for any actions that need to be taken in response to infor-  
6 mation received under subsection (a).

7 (d) ASSISTANCE FROM FOREIGN GOVERNMENT.—  
8 The person designated for receiving information pursuant  
9 to subsection (a) is strongly encouraged to coordinate with  
10 governments and civil society organizations in the coun-  
11 tries of origin to ensure the exchange visitor receives addi-  
12 tional support.

13 (e) MAINTENANCE AND AVAILABILITY OF INFORMA-  
14 TION.—The Secretary of State shall ensure that con-  
15 sulates coordinate with the Department of State to have  
16 access to information regarding the identities of sponsors  
17 and the foreign entities with whom sponsors contract for  
18 exchange visitor program recruitment activities. The Sec-  
19 retary of State shall ensure information on the identity  
20 of sponsors is publicly available in written form on the  
21 Department of State website, and information on the iden-  
22 tity of foreign entities in each individual country is pub-  
23 licly available on the websites of United States embassies  
24 in each of those countries.

1   **SEC. 3910. ENFORCEMENT PROVISIONS.**

2           (a) INVESTIGATIONS.—The Secretary of State shall  
3 undertake compliance actions and sanctions against ex-  
4 change visitor program sponsors in accordance with part  
5 62 of title 22, Code of Federal Regulations.

6           (b) REPRESENTATION.—Except as provided in sec-  
7 tion 518(a) of title 28, United States Code, the Attorney  
8 General may appear for and represent the Secretary in  
9 any civil litigation brought under this paragraph. All such  
10 litigation shall be subject to the direction and control of  
11 the Attorney General. Exchange visitor sponsors shall be  
12 allowed a reasonable period of inquiry and response before  
13 civil litigation is initiated.

14          (c) ENFORCEMENT.—The Secretary of State or an  
15 exchange visitor who is subject to any violation of this sub-  
16 title may bring a civil action against an exchange visitor  
17 program sponsor, foreign entity, or host entity in a court  
18 of competent jurisdiction and recover appropriate relief,  
19 including injunctive relief, damages, reasonable attorneys'  
20 fees and costs, and any other remedy that would effectuate  
21 the purposes of this subtitle. Any action must be filed  
22 within 3 years after the date on which the exchange visitor  
23 became aware of the violation, but under no circumstances  
24 more than 5 years after the date on which the violation  
25 occurred.

1 (d) ACTIONS BY THE SECRETARY OF STATE OR AN  
2 EXCHANGE VISITOR.—If the court finds in a civil action  
3 filed under this section that the defendant has violated any  
4 provision of this subtitle (or any regulation issued pursu-  
5 ant to this subtitle), the court may award damages, up  
6 to and including an amount equal to the amount of actual  
7 damages, and statutory damages of up to \$1,000 per  
8 plaintiff per violation, or other equitable relief, except that  
9 with respect to statutory damages—

10 (1) multiple infractions of a single provision of  
11 this subtitle (or of a regulation under this subtitle)  
12 shall constitute only 1 violation for purposes of sec-  
13 tion 3902(a) to determine the amount of statutory  
14 damages due a plaintiff; and

15 (2) if such complaint is certified as a class ac-  
16 tion the court may award—

17 (A) damages up to an amount equal to the  
18 amount of actual damages; and

19 (B) statutory damages of not more than  
20 the lesser of up to \$1,000 per class member per  
21 violation, or up to \$500,000;

22 (C) other equitable relief;

23 (D) reasonable attorneys' fees and costs;

24 and



1                   (E) such other and further relief, including  
2                   declaratory and injunctive relief, as necessary to  
3                   effectuate the purposes of this subtitle.

4           (e) BOND.—To satisfy the damages, fees, and costs  
5   found owing under this section, as much of the bond held  
6   pursuant to section 3906 shall be released as necessary.

7           (f) APPEAL.—Any civil action brought under this sec-  
8   tion shall be subject to appeal as provided in chapter 83  
9   of title 28, United States Code.

10          (g) SAFE HARBOR.—A host entity shall not have any  
11   liability under this section for the actions or omissions of  
12   an exchange visitor program sponsor that has a valid des-  
13   ignation with the State Department pursuant to section  
14   3905, unless and to the extent that the host entity has  
15   engaged in conduct that violates this subtitle.

16          (h) LIABILITY FOR FOREIGN ENTITIES.—Exchange  
17   visitor program sponsors shall be liable for violations of  
18   this subtitle by any foreign employees, agents, foreign en-  
19   tities, or subcontractees of any level in relation to the ex-  
20   change visitor program recruitment activities of the for-  
21   eign employees, agents, foreign entities, or subcontractees  
22   to the same extent as if the exchange visitor program  
23   sponsor had committed the violation, unless the exchange  
24   visitor program sponsor—

1           (1) uses reasonable procedures to protect  
2           against violations of this subtitle by foreign employ-  
3           ees, agents, foreign entities, or subcontractees (in-  
4           cluding contractually forbidding in writing any for-  
5           eign employees, agents, foreign entities, or  
6           subcontractees from seeking or receiving prohibited  
7           fees from workers);

8           (2) does not act with reckless disregard of the  
9           fact that foreign employees, agents, foreign entities,  
10          or subcontractees have violated any provision of this  
11          subtitle; and

12          (3) timely reports any potential violations to the  
13          Secretary of State.

14          (i) WAIVER OF RIGHTS.—Agreements between ex-  
15          change visitors with sponsors, foreign entities, or host en-  
16          tities purporting to waive or to modify their rights under  
17          this subtitle shall be void as contrary to public policy.

18          (j) RETALIATION.—No person shall intimidate,  
19          threaten, restrain, coerce, discharge, or in any other man-  
20          ner discriminate or retaliate against any exchange visitor  
21          or his or her family members (including a former exchange  
22          visitor or an applicant for employment) because such ex-  
23          change visitor disclosed information to any person that the  
24          exchange visitor reasonably believes evidences a violation  
25          of this section (or any rule or regulation pertaining to this

1 section), including speaking with a worker organization,  
2 seeking legal assistance of counsel, or cooperating with an  
3 investigation or other proceeding concerning compliance  
4 with this section (or any regulation pertaining to this sec-  
5 tion).

6 (k) PROHIBITION ON RETALIATION.—It shall be un-  
7 lawful for an exchange visitor program sponsor or foreign  
8 entity to terminate or remove from the exchange visitor  
9 program, ban from the program, adversely annotate an ex-  
10 change visitor's SEVIS (as defined in section 4902)  
11 record, fire, demote, take other adverse employment ac-  
12 tion, or evict, or to threaten to take any of such actions  
13 against an exchange visitor in retaliation for the act of  
14 complaining about program conditions, including housing  
15 and job placements, wages, hours, and general treatment,  
16 or for disclosing retaliation by an exchange visitor sponsor,  
17 exchange visitor foreign entity, or host entity against any  
18 exchange visitor.

19 (l) PRESENCE DURING PENDENCY OF ACTIONS.—If  
20 other immigration relief is not available to the exchange  
21 visitor, the Secretary of Homeland Security may permit,  
22 only on the basis of proof, the exchange visitor to remain  
23 lawfully in the United States for the time sufficient to  
24 allow the exchange visitor to fully and effectively partici-

1 pate in all legal proceedings related to any action taken  
2 pursuant to this section.

3 (m) ACCESS TO LEGAL SERVICES CORPORATION.—  
4 Notwithstanding any other provision of law, the Legal  
5 Services Corporation and recipients of its funding may  
6 provide legal assistance on behalf of any alien with respect  
7 to any provision of this subtitle.

8 (n) HOST ENTITY VIOLATIONS.—The Secretary, in  
9 consultation with the Secretary of Labor, shall maintain  
10 a list of host entities against whom there has been a com-  
11 plaint substantiated by the Department of State for sig-  
12 nificant program violations. Information from that list  
13 shall be made available to sponsors upon request.

14 **SEC. 3911. AUDITS AND TRANSPARENCY.**

15 (a) COMPLIANCE AUDITS.—

16 (1) IN GENERAL.—The Secretary of State shall  
17 by regulation require audit reports to be filed by ex-  
18 change visitor program sponsors operating under the  
19 following specific program categories, as described  
20 under subpart B of part 62 of title 22, Code of Fed-  
21 eral Regulations, and any successor regulations:

- 22 (A) Summer work travel.
- 23 (B) Trainees and interns.
- 24 (C) Camp counselors.
- 25 (D) Au pairs.

1 (E) Teachers.

2 (2) AUDIT REPORTS.—Audit reports shall be  
3 filed with the Department of State and be conducted  
4 by a certified public accountant, qualified auditor, or  
5 licensed attorney pursuant to a format designated by  
6 the Secretary of State, attesting to the sponsor's  
7 compliance with the regulatory and reporting re-  
8 quirements set forth in part 62 of title 22, Code of  
9 Federal Regulations. The report shall be conducted  
10 at the expense of the sponsor and no more fre-  
11 quently than on a biannual basis.

12 (b) ANNUAL REPORT.—Not later than 1 year after  
13 the date of the enactment of this Act, and annually there-  
14 after, the Secretary of State shall submit to Congress a  
15 report on the exchange visitor program, which shall detail  
16 for each specific program category—

17 (1) summary data on the number of exchange  
18 visitors and countries participating in that category;

19 (2) public diplomacy outcomes; and

20 (3) recent sanctions imposed by the Depart-  
21 ment of State.

1 **TITLE IV—REFORMS TO NON-**  
2 **IMMIGRANT VISA PROGRAMS**  
3 **Subtitle A—Employment-based**  
4 **Nonimmigrant Visas**

5 **SEC. 4101. MARKET-BASED H-1B VISA LIMITS.**

6 (a) IN GENERAL.—Section 214(g) (8 U.S.C.  
7 1184(g)) is amended—

8 (1) in paragraph (1)—

9 (A) in the matter preceding subparagraph  
10 (A), by striking “(beginning with fiscal year  
11 1992)”; and

12 (B) by amending subparagraph (A) to read  
13 as follows:

14 “(A) under section 101(a)(15)(H)(i)(b)  
15 may not exceed the sum of—

16 “(i) the base allocation calculated  
17 under paragraph (9)(A); and

18 “(ii) the allocation adjustment cal-  
19 culated under paragraph (9)(B); and”;

20 (2) by redesignating paragraph (10) as sub-  
21 paragraph (D) of paragraph (9);

22 (3) by redesignating paragraph (9) as para-  
23 graph (10); and

24 (4) by inserting after paragraph (8) the fol-  
25 lowing:

1       “(9)(A) Except as provided in subparagraph (C), the  
2 base allocation of nonimmigrant visas under section  
3 101(a)(15)(H)(i)(b) for each fiscal year shall be equal  
4 to—

5               “(i) the sum of—

6                       “(I) the base allocation for the most re-  
7 cently completed fiscal year; and

8                       “(II) the allocation adjustment under sub-  
9 paragraph (B) for the most recently completed  
10 fiscal year;

11               “(ii) if the number calculated under clause (i)  
12 is less than 115,000, 115,000; or

13               “(iii) if the number calculated under clause (i)  
14 is more than 180,000, 180,000.

15       “(B)(i) If the number of cap-subject nonimmigrant  
16 visa petitions accepted for filing under section  
17 101(a)(15)(H)(i)(b) during the first 45 days petitions may  
18 be filed for a fiscal year is equal to the base allocation  
19 for such fiscal year, an additional 20,000 such visas shall  
20 be made available beginning on the 46th day on which pe-  
21 titions may be filed for such fiscal year.

22       “(ii) If the base allocation of cap-subject non-  
23 immigrant visa petitions accepted for filing under section  
24 101(a)(15)(H)(i)(b) for a fiscal year is reached during the  
25 15-day period ending on the 60th day on which petitions

1 may be filed for such fiscal year, an additional 15,000  
2 such visas shall be made available beginning on the 61st  
3 day on which petitions may be filed for such fiscal year.

4 “(iii) If the base allocation of cap-subject non-  
5 immigrant visa petitions accepted for filing under section  
6 101(a)(15)(H)(i)(b) for a fiscal year is reached during the  
7 30-day period ending on the 90th day on which petitions  
8 may be filed for such fiscal year, an additional 10,000  
9 such visas shall be made available beginning on the 91st  
10 day on which petitions may be filed for such fiscal year.

11 “(iv) If the base allocation of cap-subject non-  
12 immigrant visa petitions accepted for filing under section  
13 101(a)(15)(H)(i)(b) for a fiscal year is reached during the  
14 185-day period ending on the 275th day on which peti-  
15 tions may be filed for such fiscal year, an additional 5,000  
16 such visas shall be made available beginning on the date  
17 on which such allocation is reached.

18 “(v) If the number of cap-subject nonimmigrant visa  
19 petitions accepted for filing under section  
20 101(a)(15)(H)(i)(b) for a fiscal year is at least 5,000  
21 fewer than the base allocation, but is not more than 9,999  
22 fewer than the base allocation, the allocation adjustment  
23 for the following fiscal year shall be -5,000.

24 “(vi) If the number of cap-subject nonimmigrant visa  
25 petitions accepted for filing under section



1 101(a)(15)(H)(i)(b) for a fiscal year is at least 10,000  
2 fewer than the base allocation, but not more than 14,999  
3 fewer than the base allocation, the allocation adjustment  
4 for the following fiscal year shall be -10,000.

5 “(vii) If the number of cap-subject nonimmigrant visa  
6 petitions accepted for filing under section  
7 101(a)(15)(H)(i)(b) for a fiscal year is at least 15,000  
8 fewer than the base allocation, but not more than 19,999  
9 fewer than the base allocation, the allocation adjustment  
10 for the following fiscal year shall be -15,000.

11 “(viii) If the number of cap-subject nonimmigrant  
12 visa petitions accepted for filing under section  
13 101(a)(15)(H)(i)(b) for a fiscal year is at least 20,000  
14 fewer than the base allocation, the allocation adjustment  
15 for the following fiscal year shall be -20,000.

16 “(C) An allocation adjustment under clause (i), (ii),  
17 (iii), or (iv) of subparagraph (B)—

18 “(i) may not increase the total number of non-  
19 immigrant visas available for any fiscal year under  
20 section 101(a)(15)(H)(i)(b) above 180,000; and

21 “(ii) may not take place to make additional  
22 nonimmigrant visas available for any fiscal year in  
23 which the national occupational unemployment rate  
24 for ‘Management, Professional, and Related Occupa-  
25 tions’, as published by the Bureau of Labor Statis-

1       tics each month, averages 4.5 percent or greater  
2       over the 12-month period preceding the date of the  
3       Secretary's determination of whether the cap should  
4       be increased or decreased.”.

5       (b) INCREASE IN ALLOCATION FOR STEM NON-  
6 IMMIGRANTS.—Section     214(g)(5)(C)     (8     U.S.C.  
7 1184(g)(5)(C)) is amended to read as follows:

8           “(C) has earned a master's or higher degree, in  
9       a field of science, technology, engineering, or math  
10      included in the Department of Education's Classi-  
11      fication of Instructional Programs taxonomy within  
12      the summary groups of computer and information  
13      sciences and support services, engineering, mathe-  
14      matics and statistics, biological and biomedical  
15      sciences, and physical sciences, from a United States  
16      institution of higher education (as defined in section  
17      101(a) of the Higher Education Act of 1965 (20  
18      U.S.C. 1001(a)) until the number of aliens who are  
19      exempted from such numerical limitation during  
20      such year exceed 25,000.”.

21      (c) PUBLICATION.—

22           (1) DATA SUMMARIZING PETITIONS.—The Sec-  
23      retary shall timely upload to a public website data  
24      that summarizes the adjudication of nonimmigrant  
25      petitions under section 101(a)(15)(H)(i)(b) of the

1 Immigration and Nationality Act (8 U.S.C.  
2 1101(a)(15)(H)(i)(b)) during each fiscal year.

3 (2) ANNUAL NUMERICAL LIMITATION.—As soon  
4 as practicable and no later than March 2 of each fis-  
5 cal year, the Secretary shall publish in the Federal  
6 Register the numerical limitation determined under  
7 section 214(g)(1)(A) for such fiscal year.

8 (d) EFFECTIVE DATE AND APPLICATION.—The  
9 amendments made by subsection (a) shall take effect on  
10 the first day of the first fiscal year beginning after the  
11 date of the enactment of this Act and apply to applications  
12 for nonimmigrant visas under section 101(a)(15)(H)(i)(b)  
13 of the Immigration and Nationality Act (8 U.S.C.  
14 1101(a)(15)(H)(i)(b)) for such fiscal year.

15 **SEC. 4102. EMPLOYMENT AUTHORIZATION FOR DEPEND-**  
16 **ENTS OF EMPLOYMENT-BASED NON-**  
17 **IMMIGRANTS.**

18 Section 214(c) (8 U.S.C. 1184(c)) is amended—

19 (1) by striking “Attorney General” each place  
20 such term appears and inserting “Secretary of  
21 Homeland Security”; and

22 (2) in paragraph (2), by amending subpara-  
23 graph (E) to read as follows:

24 “(E)(i) In the case of an alien spouse admitted under  
25 section 101(a)(15)(L), who is accompanying or following

1 to join a principal alien admitted under such section, the  
2 Secretary of Homeland Security shall—

3 “(I) authorize the alien spouse to engage in em-  
4 ployment in the United States; and

5 “(II) provide the spouse with an ‘employment  
6 authorized’ endorsement or other appropriate work  
7 permit.

8 “(ii) In the case of an alien spouse admitted under  
9 section 101(a)(15)(H)(i)(b), who is accompanying or fol-  
10 lowing to join a principal alien admitted under such sec-  
11 tion, the Secretary of Homeland Security shall—

12 “(I) authorize the alien spouse to engage in em-  
13 ployment in the United States; and

14 “(II) provide such a spouse with an ‘employ-  
15 ment authorized’ endorsement or other appropriate  
16 work permit, if appropriate.

17 “(iii)(I) Upon the request of the Secretary of State,  
18 the Secretary of Homeland Security may suspend employ-  
19 ment authorizations under clause (ii) to nationals of a for-  
20 eign country that does not permit reciprocal employment  
21 to nationals of the United States who are accompanying  
22 or following to join the employment-based nonimmigrant  
23 husband or wife of such spouse to be employed in such  
24 foreign country based on that status.

1       “(II) In subclause (I), the term ‘employment-based  
2 nonimmigrant’ means an individual who is admitted to a  
3 foreign country to perform employment similar to the em-  
4 ployment described in section 101(a)(15)(H)(i)(b).”.

5   **SEC. 4103. ELIMINATING IMPEDIMENTS TO WORKER MO-**  
6                   **BILITY.**

7       (a) DEFERENCE TO PRIOR APPROVALS.—Section  
8 214(c) (8 U.S.C. 1184(c)), as amended by section 4102,  
9 is further amended by adding at the end the following:

10       “(15) Subject to paragraph (2)(D) and subsection (g)  
11 and section 104(c) and subsections (a) and (b) of section  
12 106 of the American Competitiveness in the Twenty-first  
13 Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1184  
14 note), the Secretary of Homeland Security shall give def-  
15 erence to a prior approval of a petition in reviewing a peti-  
16 tion to extend the status of a nonimmigrant admitted  
17 under subparagraph (H)(i)(b) or (L) of section 101(a)(15)  
18 if the petition involves the same alien and petitioner unless  
19 the Secretary determines that—

20               “(A) there was a material error with regard to  
21 the previous petition approval;

22               “(B) a substantial change in circumstances has  
23 taken place;

1 “(C) new material information has been discov-  
2 ered that adversely impacts the eligibility of the em-  
3 ployer or the nonimmigrant; or

4 “(D) in the Secretary’s discretion, such exten-  
5 sion should not be approved.”.

6 (b) EFFECT OF EMPLOYMENT TERMINATION.—Sec-  
7 tion 214(n) (8 U.S.C. 1184(n)) is amended by adding at  
8 the end the following:

9 “(3) A nonimmigrant admitted under section  
10 101(a)(15)(H)(i)(b) whose employment relationship termi-  
11 nates before the expiration of the nonimmigrant’s period  
12 of authorized admission shall be deemed to have retained  
13 such legal status throughout the entire 60-day period be-  
14 ginning on the date such employment is terminated. A  
15 nonimmigrant who files a petition to extend, change, or  
16 adjust their status at any point during such period shall  
17 be deemed to have lawful status under section  
18 101(a)(15)(H)(i)(b) while that petition is pending.”.

19 (c) VISA REVALIDATION.—Section 222(c) (8 U.S.C.  
20 1202(c)) is amended—

21 (1) by inserting “(1)” before “Every alien”;  
22 and

23 (2) by adding at the end the following:

24 “(2) The Secretary of State may, at the Secretary’s  
25 discretion, renew in the United States the visa of an alien

1 admitted under subparagraph (A), (E), (G), (H), (I), (L),  
2 (N), (O), (P), (R), or (W) of section 101(a)(15) if the  
3 alien has remained eligible for such status and qualifies  
4 for a waiver of interview as provided for in subsection  
5 (h)(1)(D).”.

6 (d) INTERVIEW WAIVERS FOR LOW RISK VISA AP-  
7 PPLICANTS.—Section 222(h)(1) (8 U.S.C. 1202(h)(1)) is  
8 amended—

9 (1) in subparagraph (B)(iv), by striking “or” at  
10 the end;

11 (2) in subparagraph (C)(ii), by striking “and”  
12 at the end and inserting “or”; and

13 (3) by adding at the end the following:

14 “(D) by the Secretary of State, in con-  
15 sultation with the Secretary of Homeland Secu-  
16 rity, for such aliens or classes of aliens—

17 “(i) that the Secretary determines  
18 generally represent a low security risk;

19 “(ii) for which an in-person interview  
20 would not add material benefit to the adju-  
21 dication process;

22 “(iii) unless the Secretary of State,  
23 after a review of all standard database and  
24 biometric checks, the visa application, and  
25 other supporting documents, determines

1                   that an interview is unlikely to reveal de-  
2                   rogatory information; and

3                   “(iv) except that in every case, the  
4                   Secretary of State retains the right to re-  
5                   quire an applicant to appear for an inter-  
6                   view; and”.

7   **SEC. 4104. STEM EDUCATION AND TRAINING.**

8           (a)   FEE.—Section    212(a)(5)(A)   (8    U.S.C.  
9   1182(a)(5)(A)) is amended by adding at the end the fol-  
10   lowing:

11                   “(v) FEE.—An employer shall submit,  
12                   along with an application for a certification  
13                   under this subparagraph, a fee of \$1,000,  
14                   which shall be deposited in the STEM  
15                   Education and Training Account estab-  
16                   lished under section 286(w).”.

17           (b) H-1B NONIMMIGRANT PETITIONER ACCOUNT.—  
18   Section 286(s) (8 U.S.C. 1356(s)) is amended by striking  
19   paragraphs (3) and (4) and inserting the following:

20                   “(3) LOW-INCOME STEM SCHOLARSHIP PRO-  
21   GRAM.—

22                   “(A) IN GENERAL.—Thirty percent of the  
23                   amounts deposited into the H-1B Non-  
24                   immigrant Petitioner Account shall remain  
25                   available to the Director of the National Science



1 Foundation until expended for scholarships de-  
2 scribed in section 414(d) of the American Com-  
3 petitiveness and Workforce Improvement Act of  
4 1998 (42 U.S.C. 1869c) for low-income stu-  
5 dents enrolled in a program of study leading to  
6 a degree in science, technology, engineering, or  
7 mathematics.

8 “(B) STEM EDUCATION FOR UNDERREP-  
9 RESENTED.—The Director shall work in con-  
10 sultation with, or direct scholarship funds  
11 through, national nonprofit organizations that  
12 primarily focus on science, technology, engineer-  
13 ing, or mathematics education for underrep-  
14 resented groups, such as women and minorities.

15 “(C) LOAN FORGIVENESS.—The Director  
16 may expend funds from the Account for pur-  
17 poses of loan forgiveness or repayment of stu-  
18 dent loans which led to a low-income student  
19 obtaining a degree in science, technology, engi-  
20 neering, mathematics, or other high demand  
21 fields.

22 “(4) NATIONAL SCIENCE FOUNDATION GRANT  
23 PROGRAM FOR K–12 SCIENCE, TECHNOLOGY, ENGI-  
24 NEERING, AND MATHEMATICS EDUCATION.—

1           “(A) IN GENERAL.—Ten percent of the  
2           amounts deposited into the H-1B Non-  
3           immigrant Petitioner Account shall remain  
4           available to the Director of the National Science  
5           Foundation until expended to carry out a direct  
6           or matching grant program to support improve-  
7           ment in K-12 education, including through pri-  
8           vate-public partnerships. Grants awarded pur-  
9           suant to this paragraph shall include formula  
10          based grants that target lower income popu-  
11          lations with a focus on reaching women and mi-  
12          norities.

13          “(B) TYPES OF PROGRAMS COVERED.—  
14          The Director shall award grants to programs  
15          that—

16                 “(i) support the development and im-  
17                 plementation of standards-based instruc-  
18                 tional materials models and related student  
19                 assessments that enable K-12 students to  
20                 acquire an understanding of science, tech-  
21                 nology, engineering, and mathematics, and  
22                 to develop critical thinking skills;

23                 “(ii) provide systemic improvement in  
24                 training K-12 teachers and education for  
25                 students in science, technology, engineer-

1 ing, and mathematics, including by sup-  
2 porting efforts to promote gender-equality  
3 among students receiving such instruction;

4 “(iii) support the professional develop-  
5 ment of K–12 science, technology, engi-  
6 neering, and mathematics teachers in the  
7 use of technology in the classroom;

8 “(iv) stimulate systemwide K–12 re-  
9 form of science, technology, engineering,  
10 and mathematics in urban, rural, and eco-  
11 nomically disadvantaged regions of the  
12 United States;

13 “(v) provide externships and other op-  
14 portunities for students to increase their  
15 appreciation and understanding of science,  
16 technology, engineering, and mathematics  
17 (including summer institutes sponsored by  
18 an institution of higher education for stu-  
19 dents in grades 7 through 12 that provide  
20 instruction in such fields);

21 “(vi) involve partnerships of industry,  
22 educational institutions, and national or  
23 regional community based organizations  
24 with demonstrated experience addressing

1 the educational needs of disadvantaged  
2 communities;

3 “(vii) provide college preparatory sup-  
4 port to expose and prepare students for ca-  
5 reers in science, technology, engineering,  
6 and mathematics; or

7 “(viii) provide for carrying out sys-  
8 temic reform activities under section  
9 3(a)(1) of the National Science Foundation  
10 Act of 1950 (42 U.S.C. 1862(a)(1)).”.

11 (c) USE OF FEE.—Section 286 (8 U.S.C. 1356) is  
12 amended by adding at the end the following:

13 “(w) STEM EDUCATION AND TRAINING ACCOUNT.—

14 “(1) IN GENERAL.—There is established in the  
15 general fund of the Treasury a separate account,  
16 which shall be known as the ‘STEM Education and  
17 Training Account’. Notwithstanding any other sec-  
18 tion of this title, there shall be deposited as offset-  
19 ting receipts into the Account all of the fees col-  
20 lected under section 212(a)(5)(A)(v).

21 “(2) PURPOSES.—

22 “(A) IN GENERAL.—The purposes of the  
23 STEM Education and Training Account are to  
24 enhance the economic competitiveness of the  
25 United States by—

1 “(i) strengthening STEM education,  
2 including in computer science, at all levels;

3 “(ii) ensuring that schools have access  
4 to well-trained and effective STEM teach-  
5 ers;

6 “(iii) supporting efforts to strengthen  
7 the elementary and secondary curriculum,  
8 including efforts to make courses in com-  
9 puter science more broadly available; and

10 “(iv) helping colleges and universities  
11 produce more graduates in fields needed by  
12 American employers.

13 “(B) DEFINED TERM.—In this paragraph,  
14 the term ‘STEM education’ means instruction  
15 in a field of science, technology, engineering or  
16 math included in the Department of Edu-  
17 cation’s Classification of Instructional Pro-  
18 grams taxonomy within the summary groups of  
19 computer and information sciences and support  
20 services, engineering, mathematics and statis-  
21 tics, biological and biomedical sciences, and  
22 physical sciences.

23 “(3) ALLOCATIONS TO STATES AND TERRI-  
24 TORIES.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), the Secretary of Education shall  
3 proportionately allocate 70 percent of the  
4 amounts deposited into the STEM Education  
5 and Training Account each fiscal year to the 50  
6 States, the District of Columbia, the Common-  
7 wealth of Puerto Rico, Guam, the United States  
8 Virgin Islands, American Samoa, and the  
9 Northern Mariana Islands in an amount that  
10 bears the same relationship as the proportion  
11 the State, district, or territory received under  
12 subpart 2 of part A of title I of the Elementary  
13 and Secondary Education Act of 1965 (20  
14 U.S.C. 6331 et seq.) for the preceding fiscal  
15 year bears to the amount all States and terri-  
16 tories received under that subpart for the pre-  
17 ceding fiscal year.

18           “(B) MINIMUM ALLOCATIONS.—No State  
19 or territory shall receive less than an amount  
20 equal to 0.5 percent of the total amount made  
21 available to all States from the STEM Edu-  
22 cation and Training Account. If a State or ter-  
23 ritory does not request an allocation from the  
24 Account for a fiscal year, the Secretary shall re-  
25 allocate the State’s allocation to the remaining

1 States and territories in accordance with this  
2 paragraph.

3 “(C) USE OF FUNDS.—Amounts allocated  
4 pursuant to this paragraph may be used for the  
5 activities described in section 4104(c) of the  
6 Border Security, Economic Opportunity, and  
7 Immigration Modernization Act.

8 “(4) STEM CAPACITY BUILDING AT MINORITY-  
9 SERVING INSTITUTIONS.—

10 “(A) IN GENERAL.—The Secretary of Edu-  
11 cation shall allocate 20 percent of the amounts  
12 deposited into the STEM Education and Train-  
13 ing Account to establish or expand programs to  
14 award grants to institutions described in sub-  
15 paragraph (C)—

16 “(i) to enhance the quality of under-  
17 graduate science, technology, engineering,  
18 and mathematics education at such institu-  
19 tions; and

20 “(ii) to increase the retention and  
21 graduation rates of students pursuing de-  
22 grees in such fields at such institutions.

23 “(B) TYPES OF PROGRAMS COVERED.—  
24 Grants awarded under this paragraph shall be  
25 awarded to—

1 “(i) minority-serving institutions of  
2 higher education for—

3 “(I) activities to improve courses  
4 and curriculum in science, technology,  
5 engineering, and mathematics;

6 “(II) efforts to promote gender  
7 equality among students enrolled in  
8 such courses;

9 “(III) faculty development;

10 “(IV) stipends for undergraduate  
11 students participating in research;  
12 and

13 “(V) other activities consistent  
14 with subparagraph (A), as determined  
15 by the Secretary of Education; and

16 “(ii) to other institutions of higher  
17 education to partner with the institutions  
18 described in clause (i) for—

19 “(I) faculty and student develop-  
20 ment and exchange;

21 “(II) research infrastructure de-  
22 velopment;

23 “(III) joint research projects;  
24 and



1                   “(IV) identification and develop-  
2                   ment of minority and low-income can-  
3                   didates for graduate studies in  
4                   science, technology, engineering, and  
5                   mathematics degree programs.

6                   “(C) INSTITUTIONS INCLUDED.—In this  
7                   paragraph, the term ‘institutions’ shall in-  
8                   clude—

9                   “(i) colleges eligible to receive funds  
10                  under the Act of August 30, 1890 (7  
11                  U.S.C. 321–326a and 328), including  
12                  Tuskegee University;

13                  “(ii) 1994 Institutions, as defined in  
14                  section 532 of the Equity in Educational  
15                  Land-Grant Status Act of 1994 (7 U.S.C.  
16                  301 note);

17                  “(iii) part B institutions (as defined  
18                  in section 322 of the Higher Education  
19                  Act of 1965 (20 U.S.C. 1061)); and

20                  “(iv) Hispanic-serving institutions, as  
21                  defined in section 502(a)(5) of the Higher  
22                  Education Act of 1965 (20 U.S.C.  
23                  1101a(a)(5)).

24                  “(D) GRANTING OF BONDING AUTHOR-  
25                  ITY.—A recipient of a grant awarded under this

1 paragraph is authorized to utilize such funds  
2 for the issuance of bonds to fund research in-  
3 frastructure development.

4 “(E) LOAN FORGIVENESS.—The Director  
5 may expend funds from the allocation under  
6 this paragraph for purposes of loan forgiveness  
7 or repayment of student loans which led to a  
8 low-income student obtaining a degree in  
9 science, technology, engineering, mathematics,  
10 or other high demand fields.

11 “(5) WORKFORCE INVESTMENT.—The Sec-  
12 retary of Education shall allocate 5 percent of the  
13 amounts deposited into the STEM Education and  
14 Training Account to the Secretary of Labor until ex-  
15 pended for statewide workforce investment activities  
16 that may also benefit veterans and their spouses, in-  
17 cluding youth activities and statewide employment  
18 and training and activities for adults and dislocated  
19 workers described in section 128(a) of the Workforce  
20 Investment Act of 1998 (29 U.S.C. 2853(a)), and  
21 the development of licensing and credentialing pro-  
22 grams.

23 “(6) AMERICAN DREAM ACCOUNTS.—The Sec-  
24 retary of Education shall allocate 3 percent of the  
25 amounts deposited into the STEM Education and

1 Training Account to award grants, on a competitive  
2 basis, to eligible entities to enable such eligible enti-  
3 ties to establish and administer American Dream  
4 Accounts under section 4104(e) of the Illegal Immi-  
5 gration Reform and Immigrant Responsibility Act of  
6 1996.

7 “(7) ADMINISTRATION EXPENSES.—The Sec-  
8 retary of Education may expend up to 2 percent of  
9 the amounts deposited into the STEM Education  
10 and Training Account for administrative expenses,  
11 including conducting an annual evaluation of the im-  
12 plementation and impact of the activities funded by  
13 the STEM Education and Training Account as re-  
14 quired under section 4104(c)(3) of the Border Secu-  
15 rity, Economic Opportunity, and Immigration Mod-  
16 ernization Act.”.

17 (d) STEM EDUCATION GRANTS.—

18 (1) APPLICATION PROCESS.—

19 (A) IN GENERAL.—Each Governor and  
20 Chief State School Officer desiring an allocation  
21 from the STEM Education and Training Ac-  
22 count under section 286(w)(3) of the Immigra-  
23 tion and Nationality Act, as added by sub-  
24 section (b), shall jointly submit a plan, includ-  
25 ing a proposed budget, signed by the Governor

1           and Chief State School Officer, to the Secretary  
2           of Education at such time, in such form, and  
3           including such information as the Secretary of  
4           Education may prescribe pursuant to subpara-  
5           graph (B). The plan shall describe how the  
6           State plans to improve STEM education to  
7           meet the needs of students and employers in  
8           the State.

9                   (B) RULEMAKING.—The Secretary of Edu-  
10           cation shall issue a rule, through a rulemaking  
11           procedure that complies with section 553 of  
12           title 5, United States Code, prescribing the in-  
13           formation that should be included in the State  
14           plans submitted under subparagraph (A).

15           (2) ALLOWABLE ACTIVITIES.—A State, district,  
16           or territory that receives funding from the STEM  
17           Education and Training Account may use such  
18           funding to develop and implement science, tech-  
19           nology, engineering, and mathematics (STEM) ac-  
20           tivities to serve students, including students of  
21           underrepresented groups such as minorities, eco-  
22           nomically disadvantaged, and females by—

23                   (A) strengthening the State’s STEM aca-  
24           demic achievement standards;

1 (B) implementing strategies for the re-  
2 cruitment, training, placement, and retention of  
3 teachers in STEM fields, including computer  
4 science;

5 (C) carrying out initiatives designed to as-  
6 sist students in succeeding and graduating from  
7 postsecondary STEM programs;

8 (D) improving the availability and access  
9 to STEM-related worker training programs, in-  
10 cluding community college courses and pro-  
11 grams;

12 (E) forming partnerships with higher edu-  
13 cation, economic development, workforce, indus-  
14 try, and local educational agencies; or

15 (F) engaging in other activities, as deter-  
16 mined by the State, in consultation with busi-  
17 nesses and State agencies, to improve STEM  
18 education.

19 (3) NATIONAL EVALUATION.—

20 (A) IN GENERAL.—Using amounts allo-  
21 cated under section 286(w)(7) of the Immigra-  
22 tion and Nationality Act, as added by sub-  
23 section (b), the Secretary of Education shall  
24 conduct, directly or through a grant or con-  
25 tract, an annual evaluation of the implementa-

1           tion and impact of the activities funded by the  
2           STEM Education and Training Account.

3           (B) ANNUAL REPORT.—The Secretary  
4           shall submit a report describing the results of  
5           each evaluation conducted under subparagraph  
6           (A) to—

7                       (i) the President;

8                       (ii) the Committee on the Judiciary of  
9           the Senate;

10                      (iii) the Committee on the Judiciary  
11           of the House of Representatives;

12                      (iv) the Committee on Health, Edu-  
13           cation, Labor, and Pensions of the Senate;  
14           and

15                      (v) the Committee on Education and  
16           the Workforce of the House of Representa-  
17           tives.

18           (C) DISSEMINATION.—The Secretary shall  
19           make the findings of the evaluation widely  
20           available to educators, the business community,  
21           and the public.

22           (4) RULE OF CONSTRUCTION.—Nothing in this  
23           subsection may be construed to permit the Secretary  
24           of Education or any other Federal official to approve

1 the content or academic achievement standards of a  
2 State.

3 (e) AMERICAN DREAM ACCOUNTS.—

4 (1) DEFINITIONS.—In this subsection:

5 (A) AMERICAN DREAM ACCOUNT.—The  
6 term “American Dream Account” means a per-  
7 sonal online account for low-income students  
8 that monitors higher education readiness and  
9 includes a college savings account.

10 (B) APPROPRIATE COMMITTEES OF CON-  
11 GRESS.—The term “appropriate committees of  
12 Congress” means—

13 (i) the Committee on Health, Edu-  
14 cation, Labor, and Pensions of the Senate;

15 (ii) the Committee on Appropriations  
16 of the Senate;

17 (iii) the Committee on Finance of the  
18 Senate;

19 (iv) the Committee on Education and  
20 the Workforce of the House of Representa-  
21 tives;

22 (v) the Committee on Appropriations  
23 of the House of Representatives;

1 (vi) the Committee on Ways and  
2 Means of the House of Representatives;  
3 and

4 (vii) any other committee of the Sen-  
5 ate or House of Representatives that the  
6 Secretary determines appropriate.

7 (C) COLLEGE SAVINGS ACCOUNT.—The  
8 term “college savings account” means a savings  
9 account that—

10 (i) provides some tax-preferred accu-  
11 mulation;

12 (ii) is widely available (such as Quali-  
13 fied Tuition Programs under section 529  
14 of the Internal Revenue Code of 1986 or  
15 Coverdell Education Savings Accounts  
16 under section 530 of the Internal Revenue  
17 Code of 1986); and

18 (iii) contains funds that may be used  
19 only for the costs associated with attending  
20 an institution of higher education, includ-  
21 ing—

22 (I) tuition and fees;

23 (II) room and board;

24 (III) textbooks;

25 (IV) supplies and equipment; and



1 (V) internet access.

2 (D) DUAL ENROLLMENT PROGRAM.—The  
3 term “dual enrollment program” means an aca-  
4 demic program through which a secondary  
5 school student is able simultaneously to earn  
6 credit toward a secondary school diploma and a  
7 postsecondary degree or credential.

8 (E) ELIGIBLE ENTITY.—The term “eligible  
9 entity” means—

- 10 (i) a State educational agency;  
11 (ii) a local educational agency;  
12 (iii) a charter school or charter man-  
13 agement organization;  
14 (iv) an institution of higher education;  
15 (v) a nonprofit organization;  
16 (vi) an entity with demonstrated expe-  
17 rience in educational savings or in assist-  
18 ing low-income students to prepare for,  
19 and attend, an institution of higher edu-  
20 cation; or

21 (vii) a consortium of 2 or more of the  
22 entities described in clause (i) through (vi).

23 (F) ESEA DEFINITIONS.—The terms  
24 “local educational agency”, “parent”, and  
25 “State educational agency” have the meanings

1           given the terms in section 9101 of the Elemen-  
2           tary and Secondary Education Act of 1965 (20  
3           U.S.C. 7801) and the term “charter school”  
4           has the meaning given the term in section 5210  
5           of such Act.

6           (G) INSTITUTION OF HIGHER EDU-  
7           CATION.—The term “institution of higher edu-  
8           cation” has the meaning given the term in sec-  
9           tion 101(a) of the Higher Education Act of  
10          1965 (20 U.S.C. 1001(a)).

11          (H) LOW-INCOME STUDENT.—The term  
12          “low-income student” means a student who is  
13          eligible to receive a free or reduced price lunch  
14          under the Richard B. Russell National School  
15          Lunch Act (42 U.S.C. 1751 et seq.).

16          (2) GRANT PROGRAM.—

17          (A) PROGRAM AUTHORIZED.—The Sec-  
18          retary of Education is authorized to award  
19          grants, on a competitive basis, to eligible enti-  
20          ties to enable such eligible entities to establish  
21          and administer American Dream Accounts for a  
22          group of low-income students.

23          (B) RESERVATION.—From the amount  
24          made available each fiscal year to carry out this  
25          section under section 286(w)(6) of the Immi-

1           gration and Nationality Act, the Secretary of  
2           Education shall reserve not more than 5 per-  
3           cent of such amount to carry out the evaluation  
4           activities described in paragraph (5)(A).

5           (C) DURATION.—A grant awarded under  
6           this subsection shall be for a period of not more  
7           than 3 years. The Secretary of Education may  
8           extend such grant for an additional 2-year pe-  
9           riod if the Secretary of Education determines  
10          that the eligible entity has demonstrated signifi-  
11          cant progress, based on the factors described in  
12          paragraph (3)(B)(xi).

13         (3) APPLICATIONS; PRIORITY.—

14                 (A) IN GENERAL.—Each eligible entity de-  
15                 siring a grant under this subsection shall sub-  
16                 mit an application to the Secretary of Edu-  
17                 cation at such time, in such manner, and con-  
18                 taining such information as the Secretary of  
19                 Education may require.

20                 (B) CONTENTS.—The application de-  
21                 scribed in subparagraph (A) shall include—

22                         (i) a description of the characteristics  
23                         of a group of not less than 30 low-income  
24                         public school students who—

1 (I) are, at the time of the appli-  
2 cation, attending a grade not higher  
3 than grade 9; and

4 (II) will, under the grant, receive  
5 an American Dream Account;

6 (ii) a description of how the eligible  
7 entity will engage, and provide support  
8 (such as tutoring and mentoring for stu-  
9 dents, and training for teachers and other  
10 stakeholders) either online or in person,  
11 to—

12 (I) the students in the group de-  
13 scribed in clause (i);

14 (II) the family members and  
15 teachers of such students; and

16 (III) other stakeholders such as  
17 school administrators and school  
18 counselors;

19 (iii) an identification of partners who  
20 will assist the eligible entity in establishing  
21 and sustaining American Dream Accounts;

22 (iv) a description of what experience  
23 the eligible entity or the eligible entity's  
24 partners have in managing college savings  
25 accounts, preparing low-income students

1 for postsecondary education, managing on-  
2 line systems, and teaching financial lit-  
3 eracy;

4 (v) a description of how the eligible  
5 entity will help increase the value of the  
6 college savings account portion of each  
7 American Dream Account, such as by pro-  
8 viding matching funds or incentives for  
9 academic achievement;

10 (vi) a description of how the eligible  
11 entity will notify each participating student  
12 in the group described in subparagraph  
13 (A), on a semiannual basis, of the current  
14 balance and status of the student's college  
15 savings account portion of the student's  
16 American Dream Account;

17 (vii) a plan that describes how the eli-  
18 gible entity will monitor participating stu-  
19 dents in the group described in clause (i)  
20 to ensure that each student's American  
21 Dream Account will be maintained if a stu-  
22 dent in such group changes schools before  
23 graduating from secondary school;

24 (viii) a plan that describes how the  
25 American Dream Accounts will be man-

1           aged for not less than 1 year after a ma-  
2           jority of the students in the group de-  
3           scribed in clause (i) graduate from sec-  
4           ondary school;

5           (ix) a description of how the eligible  
6           entity will encourage students in the group  
7           described in clause (i) who fail to graduate  
8           from secondary school to continue their  
9           education;

10          (x) a description of how the eligible  
11          entity will evaluate the grant program, in-  
12          cluding by collecting, as applicable, data  
13          about the students in the group described  
14          in clause (i) during the grant period, and,  
15          if sufficient grant funds are available, after  
16          the grant period, including

17               (I) attendance rates;

18               (II) progress reports;

19               (III) grades and course selec-  
20               tions;

21               (IV) the student graduation rate  
22               (as defined in section 1111  
23               (b)(2)(C)(vi) of the Elementary and  
24               Secondary Education Act of 1965 (20  
25               U.S.C. 6311(b)(2)(C)(vi)));

1 (V) rates of student completion  
2 of the Free Application for Federal  
3 Student Aid described in section 483  
4 of the Higher Education Act of 1965  
5 (20 U.S.C. 1090);

6 (VI) rates of enrollment in an in-  
7 stitution of higher education; and

8 (VII) rates of completion at an  
9 institution of higher education;

10 (xi) a description of what will happen  
11 to the funds in the college savings account  
12 portion of the American Dream Accounts  
13 that are dedicated to participating stu-  
14 dents described in clause (i) who have not  
15 matriculated at an institution of higher  
16 education at the time of the conclusion of  
17 the period of American Dream Account  
18 management described in clause (viii);

19 (xii) a description of how the eligible  
20 entity will ensure that funds in the college  
21 savings account portion of the American  
22 Dream Accounts will not make families in-  
23 eligible for public assistance; and

24 (xiii) a description of how the eligible  
25 entity will ensure that participating stu-

1                   dents described in clause (i) will have ac-  
2                   cess to the Internet;

3                   (C) PRIORITY.—In awarding grants under  
4                   this subsection, the Secretary of Education  
5                   shall give priority to applications from eligible  
6                   entities that—

7                   (i) are described in paragraph  
8                   (1)(E)(vii);

9                   (ii) serve the largest number of low-in-  
10                  come students;

11                  (iii) emphasize preparing students to  
12                  pursue careers in science, technology, engi-  
13                  neering, or mathematics; or

14                  (iv) in the case of an eligible entity  
15                  described in clause (i) or (ii) of paragraph  
16                  (1)(E), provide opportunities for partici-  
17                  pating students described in clause (i) to  
18                  participate in a dual enrollment program  
19                  at no cost to the student.

20                  (4) AUTHORIZED ACTIVITIES.—

21                  (A) IN GENERAL.—An eligible entity that  
22                  receives a grant under this subsection shall use  
23                  such grant funds to establish an American  
24                  Dream Account for each participating student



1 described in paragraph (3)(B)(i), which will be  
2 used to—

3 (i) open a college savings account for  
4 such student;

5 (ii) monitor the progress of such stu-  
6 dent online, which—

7 (I) shall include monitoring stu-  
8 dent data relating to—

9 (aa) grades and course se-  
10 lections;

11 (bb) progress reports; and

12 (cc) attendance and discipli-  
13 nary records; and

14 (II) may also include monitoring  
15 student data relating to a broad range  
16 of information, provided by teachers  
17 and family members, related to post-  
18 secondary education readiness, access,  
19 and completion;

20 (iii) provide opportunities for such  
21 students, either online or in person, to  
22 learn about financial literacy, including  
23 by—

1 (I) assisting such students in fi-  
2 nancial planning for enrollment in an  
3 institution of higher education; and

4 (II) assisting such students in  
5 identifying and applying for financial  
6 aid (such as loans, grants, and schol-  
7 arships) for an institution of higher  
8 education;

9 (iv) provide opportunities for such  
10 students, either online or in person, to  
11 learn about preparing for enrollment in an  
12 institution of higher education, including  
13 by providing instruction to students  
14 about—

15 (I) choosing the appropriate  
16 courses to prepare for postsecondary  
17 education;

18 (II) applying to an institution of  
19 higher education;

20 (III) building a student portfolio,  
21 which may be used when applying to  
22 an institution of higher education;

23 (IV) selecting an institution of  
24 higher education;

1 (V) choosing a major for the stu-  
2 dent's postsecondary program of edu-  
3 cation or a career path, including spe-  
4 cific instruction on pursuing science,  
5 technology, engineering, and mathe-  
6 matics majors; and

7 (VI) adapting to life at an insti-  
8 tution of higher education; and

9 (v) provide opportunities for such stu-  
10 dents, either online or in person, to iden-  
11 tify skills or interests, including career in-  
12 terests.

13 (B) ACCESS TO AMERICAN DREAM AC-  
14 COUNT.—

15 (i) IN GENERAL.—Subject to clause  
16 (iii) and (iv), and in accordance with appli-  
17 cable Federal laws and regulations relating  
18 to privacy of information and the privacy  
19 of children, an eligible entity that receives  
20 a grant under this subsection shall allow  
21 vested stakeholders described in clause (ii),  
22 to have secure access, through the Inter-  
23 net, to an American Dream Account.

24 (ii) VESTED STAKEHOLDERS.—The  
25 vested stakeholders that an eligible entity

1           shall permit to access an American Dream  
2           Account are individuals (such as the stu-  
3           dent's teachers, school counselors, coun-  
4           selors at an institution of higher education,  
5           school administrators, or other individuals)  
6           that are designated, in accordance with the  
7           Family Educational Rights and Privacy  
8           Act of 1974 (20 U.S.C. 1232g), by the  
9           parent of a participating student in whose  
10          name such American Dream Account is  
11          held, as having permission to access the  
12          account. A student's parent may withdraw  
13          such designation from an individual at any  
14          time.

15                (iii) EXCEPTION FOR COLLEGE SAV-  
16                INGS ACCOUNT.—An eligible entity that re-  
17                ceives a grant under this subsection shall  
18                not be required to give vested stakeholders  
19                described in clause (ii), access to the col-  
20                lege savings account portion of a student's  
21                American Dream Account.

22                (iv) ADULT STUDENTS.—Notwith-  
23                standing clause (i) through (iii), if a par-  
24                ticipating student is age 18 or older, an el-  
25                igible entity that receives a grant under

1           this subsection shall not provide access to  
2           such participating student's American  
3           Dream Account without the student's con-  
4           sent, in accordance with the Family Edu-  
5           cational Rights and Privacy Act of 1974  
6           (20 U.S.C. 1232g).

7                   (v) INPUT OF STUDENT INFORMA-  
8           TION.—Student data collected pursuant to  
9           subparagraph (A)(ii)(I) may only be en-  
10          tered into an American Dream Account by  
11          a school administrator or such administra-  
12          tor's designee.

13                   (C) PROHIBITION ON USE OF STUDENT IN-  
14          FORMATION.—An eligible entity that receives a  
15          grant under this subsection may not use any  
16          student-level information or data for the pur-  
17          pose of soliciting, advertising, or marketing any  
18          financial or nonfinancial consumer product or  
19          service that is offered by such eligible entity, or  
20          on behalf of any other person.

21                   (D) LIMITATION ON THE USE OF GRANT  
22          FUNDS.—An eligible entity shall not use more  
23          than 25 percent of the grant funds provided  
24          under this subsection to provide the initial de-

1           posit into a college savings account portion of  
2           a student's American Dream Account.

3           (5) REPORTS AND EVALUATIONS.—

4                 (A) IN GENERAL.—Not later than 1 year  
5           after the Secretary of Education has disbursed  
6           grants under this subsection, and annually  
7           thereafter, the Secretary of Education shall pre-  
8           pare and submit a report to the appropriate  
9           committees of Congress that includes an evalua-  
10          tion of the effectiveness of the grant program  
11          established under this subsection.

12                (B) CONTENTS.—The report described in  
13          subparagraph (A) shall—

14                   (i) list the grants that have been  
15                  awarded under paragraph (2)(A);

16                   (ii) include the number of students  
17                  who have an American Dream Account es-  
18                  tablished through a grant awarded under  
19                  paragraph (2)(A);

20                   (iii) provide data (including the inter-  
21                  est accrued on college savings accounts  
22                  that are part of an American Dream Ac-  
23                  count) in the aggregate, regarding stu-  
24                  dents who have an American Dream Ac-  
25                  count established through a grant awarded

1 under paragraph (2)(A), as compared to  
2 similarly situated students who do not have  
3 an American Dream Account;

4 (iv) identify best practices developed  
5 by the eligible entities receiving grants  
6 under this subsection;

7 (v) identify any issues related to stu-  
8 dent privacy and stakeholder accessibility  
9 to American Dream Accounts;

10 (vi) provide feedback from partici-  
11 pating students and the parents of such  
12 students about the grant program, includ-  
13 ing—

14 (I) the impact of the program;

15 (II) aspects of the program that  
16 are successful;

17 (III) aspects of the program that  
18 are not successful; and

19 (IV) any other data required by  
20 the Secretary of Education; and

21 (vii) provide recommendations for ex-  
22 panding the American Dream Accounts  
23 program.

24 (6) ELIGIBILITY TO RECEIVE FEDERAL STU-  
25 DENT FINANCIAL AID.—Notwithstanding any other

1 provision of law, any funds that are in the college  
2 savings account portion of a student's American  
3 Dream Account shall not affect such student's eligi-  
4 bility to receive Federal student financial aid, includ-  
5 ing any Federal student financial aid under the  
6 Higher Education Act of 1965 (20 U.S.C. 1001),  
7 and shall not be considered in determining the  
8 amount of any such Federal student aid.

9 (f) CONFORMING AMENDMENT.—Section 480(j) of  
10 the Higher Education Act of 1965 (20 U.S.C. 1087vv(j))  
11 is amended by adding at the end the following:

12 “(5) Notwithstanding paragraph (1), amounts  
13 made available under the college savings account  
14 portion of an American Dream Account under sec-  
15 tion 4105(e)(4) of the Illegal Immigration Reform  
16 and Immigrant Responsibility Act of 1996 shall not  
17 be treated as estimated financial assistance for pur-  
18 poses of section 471(3).”.

19 **SEC. 4105. H-1B AND L VISA FEES.**

20 Section 281 (8 U.S.C. 1351) is amended—

21 (1) by striking “The fees” and inserting the fol-  
22 lowing:

23 “(a) IN GENERAL.—The fees”;

24 (2) by striking “: Provided, That nonimmigrant  
25 visas” and inserting the following: “.



1       “(b) UNITED NATIONS VISITORS.—Nonimmigrant  
2 visas”;

3               (3) by striking “Subject to” and inserting the  
4 following:

5       “(c) FEE WAIVERS OR REDUCTIONS.—Subject to”;  
6 and

7               (4) by adding at the end the following:

8       “(d) H-1B AND L VISA FEES.—In addition to the  
9 fees authorized under subsection (a), the Secretary of  
10 Homeland Security shall collect, from each employer (ex-  
11 cept for nonprofit research institutions and nonprofit edu-  
12 cational institutions) filing a petition to hire non-  
13 immigrants described in subparagraph (H)(i)(B) or (L)  
14 of section 101(a)(15), a fee in an amount equal to—

15               “(1) \$1,250 for each such petition filed by any  
16 employer with not more than 25 full-time equivalent  
17 employees in the United States; and

18               “(2) \$2,500 for each such petition filed by any  
19 employer with more than 25 such employees.”.

1     **Subtitle B—H-1B Visa Fraud and**  
2             **Abuse Protections**

3             **CHAPTER 1—H-1B EMPLOYER**  
4             **APPLICATION REQUIREMENTS**

5     **SEC. 4211. MODIFICATION OF APPLICATION REQUIRE-**  
6             **MENTS.**

7             (a) GENERAL APPLICATION REQUIREMENTS.—

8                 (1) WAGE RATES.—Section 212(n)(1)(A) (8  
9     U.S.C. 1182(n)(1)(A)) is amended—

10                 (A) in clause (i)—

11                     (i) in the matter preceding subclause  
12                     (I), by inserting “if the employer is not an  
13                     H-1B-dependent employer,” before “is of-  
14                     fering”;

15                     (ii) in subclause (I), by striking  
16                     “question, or” and inserting “question;  
17                     or”;

18                     (iii) in subclause (II), by striking  
19                     “employment,” and inserting “employ-  
20                     ment;” and

21                     (iv) in the undesignated material fol-  
22                     lowing subclause (II), by striking “applica-  
23                     tion, and” and inserting “application;”  
24                     and

1 (B) by striking clause (ii) and inserting the  
2 following:

3 “(ii) if the employer is an H–1B-dependent  
4 employer, is offering and will offer to H–1B  
5 nonimmigrants, during the period of authorized  
6 employment for each H–1B nonimmigrant,  
7 wages that are not less than the level 2 wages  
8 set out in subsection (p); and

9 “(iii) will provide working conditions for  
10 H–1B nonimmigrants that will not adversely af-  
11 fect the working conditions of other workers  
12 similarly employed.”.

13 (2) STRENGTHENING THE PREVAILING WAGE  
14 SYSTEM.—Section 212(p) (8 U.S.C. 1182(p)) is  
15 amended to read as follows:

16 “(p) COMPUTATION OF PREVAILING WAGE LEVEL.—

17 “(1) IN GENERAL.—

18 “(A) SURVEYS.—For employers of non-  
19 immigrants admitted pursuant to section  
20 101(a)(15)(H)(i)(b), the Secretary of Labor  
21 shall make available to employers a govern-  
22 mental survey to determine the prevailing wage  
23 for each occupational classification by metro-  
24 politan statistical area in the United States.  
25 Such survey, or other survey approved by the

1 Secretary of Labor, shall provide 3 levels of  
2 wages commensurate with experience, edu-  
3 cation, and level of supervision. Such wage lev-  
4 els shall be determined as follows:

5 “(i) The first level shall be the mean  
6 of the lowest two-thirds of wages surveyed,  
7 but in no case less than 80 percent of the  
8 mean of the wages surveyed.

9 “(ii) The second level shall be the  
10 mean of wages surveyed.

11 “(iii) The third level shall be the  
12 mean of the highest two-thirds of wages  
13 surveyed.

14 “(B) EDUCATIONAL, NONPROFIT, RE-  
15 SEARCH, AND GOVERNMENTAL ENTITIES.—In  
16 computing the prevailing wage level for an occu-  
17 pational classification in an area of employment  
18 for purposes of section 203(b)(1)(D) and sub-  
19 sections (a)(5)(A), (n)(1)(A)(i)(II), and  
20 (t)(1)(A)(i)(II) of this section in the case of an  
21 employee of—

22 “(i) an institution of higher education,  
23 or a related or affiliated nonprofit entity;  
24 or

“(ii) a nonprofit research organization  
or a governmental research organization;  
the prevailing wage level shall only take into ac-  
count employees at such institutions and orga-  
nizations in the area of employment.

6                   “(2) PAYMENT OF PREVAILING WAGE.—The  
7           prevailing wage level required to be paid pursuant to  
8           section 203(b)(1)(D) and subsections (a)(5)(A),  
9           (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) of this section  
10          shall be 100 percent of the wage level determined  
11          pursuant to those sections.

“(3) PROFESSIONAL ATHLETE.—With respect to a professional athlete (as defined in subsection (a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and shall be considered the prevailing wage.

20 “(4) WAGES FOR H-2B EMPLOYEES.—

21 “(A) IN GENERAL.—The wages paid to H—  
22 2B nonimmigrants employed by the employer  
23 will be the greater of—

24 “(i) the actual wage level paid by the  
25 employer to other employees with similar

1 experience and qualifications for such posi-  
2 tion; or

3 “(ii) the prevailing wage level for the  
4 occupational classification of the position  
5 in the geographic area of the employment,  
6 based on the best information available as  
7 of the time of filing the application.

8 “(B) BEST INFORMATION AVAILABLE.—In  
9 subparagraph (A), the term ‘best information  
10 available’, with respect to determining the pre-  
11 vailing wage for a position, means—

12 “(i) a controlling collective bargaining  
13 agreement or Federal contract wage, if ap-  
14 plicable;

15 “(ii) if there is no applicable wage  
16 under clause (i), the wage level commensu-  
17 rate with the experience, training, and su-  
18 pervision required for the job based on Bu-  
19 reau of Labor Statistics data; or

20 “(iii) if the data referred to in clause  
21 (ii) is not available, a legitimate and recent  
22 private survey of the wages paid for such  
23 positions in the metropolitan statistical  
24 area.”.

1           (3) WAGES FOR EDUCATIONAL, NONPROFIT,  
2       RESEARCH, AND GOVERNMENTAL ENTITIES.—Sec-  
3       tion 212 (8 U.S.C. 1182), as amended by sections  
4       2312 and 2313, is further amended by adding at the  
5       end the following:

6       “(x) DETERMINATION OF PREVAILING WAGE.—In  
7       the case of a nonprofit institution of higher education (as  
8       defined in section 101(a) of the Higher Education Act of  
9       1965 (20 U.S.C. 1001(a))), a related or affiliated non-  
10      profit entity, a nonprofit research organization, or a gov-  
11      ernmental research organization, the Secretary of Labor  
12      shall determine such wage levels as follows:

13           “(1) If the Secretary of Labor uses, or makes  
14      available to employers, a governmental survey to de-  
15      termine the prevailing wage, such survey shall pro-  
16      vide at least 4 levels of wages commensurate with  
17      experience, education, and the level of supervision.

18           “(2) If an existing government survey has only  
19      2 levels, 2 intermediate levels may be created by di-  
20      viding by 3, the difference between the 2 levels of-  
21      fered, adding the quotient thus obtained to the first  
22      level and subtracting that quotient from the second  
23      level.

1           “(3) For institutions of higher education, only  
2           teaching positions and research positions may be  
3           paid using this special educational wage level.

4           “(4) In computing the prevailing wage level for  
5           an occupational classification in an area of employ-  
6           ment for purposes of subsections (a)(5)(A),  
7           (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II) and section  
8           203(b)(1)(D) for an employee of an institution of  
9           higher education, or a related or affiliated nonprofit  
10          entity or a nonprofit research organization or a gov-  
11          ernmental research organization, the prevailing wage  
12          level shall only take into account employees at such  
13          institutions and organizations in the area of employ-  
14          ment.”.

15          (b) INTERNET POSTING REQUIREMENT.—Section  
16          212(n)(1)(C) (8 U.S.C. 1182(n)(1)(C)) is amended—

17                 (1) by redesignating clause (ii) as subclause  
18                 (II);

19                 (2) by striking “(i) has provided” and inserting  
20                 the following:

21                         “(ii)(I) has provided”;

22                 (3) by striking “sought, or” and inserting  
23                 “sought; or”; and

24                 (4) by inserting before clause (ii), as redesign-  
25                 ated by paragraph (2), the following:



1           “(i) has advertised on the Internet website  
2           maintained by the Secretary of Labor for the  
3           purpose of such advertising, for at least 30 cal-  
4           endar days, a detailed description of each posi-  
5           tion for which a nonimmigrant is sought that  
6           includes a description of—

7                   “(I) the wage ranges and other terms  
8                   and conditions of employment;

9                   “(II) the minimum education, train-  
10                  ing, experience, and other requirements for  
11                  the position;

12                  “(III) the process for applying for the  
13                  position;

14                  “(IV) the title and description of the  
15                  position, including the location where the  
16                  work will be performed; and

17                  “(V) the name, city, and zip code of  
18                  the employer; and”.

19           (c) APPLICATION OF REQUIREMENTS TO ALL EM-  
20           PLOYERS.—

21                   (1) NONDISPLACEMENT.—Section 212(n)(1)(E)  
22                   (8 U.S.C. 1182(n)(1)(E)) is amended to read as fol-  
23                   lows:

24                   “(E)(i)(I) In the case of an application filed by  
25                   an employer that is an H-1B skilled worker depend-

1       ent employer, and is not an H-1B dependent em-  
2       ployer, the employer did not displace and will not  
3       displace a United States worker employed by the  
4       employer during the period beginning 90 days before  
5       the date on which a visa petition supported by the  
6       application is filed and ending 90 days after such fil-  
7       ing.

8               “(II) An employer that is not an H-1B skilled  
9       worker dependent employer shall not be subject to  
10      subclause (I) unless—

11               “(aa) the employer is filing the H-1B peti-  
12      tion with the intent or purpose of displacing a  
13      specific United States worker from the position  
14      to be occupied by the beneficiary of the petition;  
15      or

16               “(bb) workers are displaced who—

17               “(AA) provide services, in whole or in  
18      part, at 1 or more worksites owned, oper-  
19      ated, or controlled by a Federal, State, or  
20      local government entity, other than a pub-  
21      lic institution of higher education, that di-  
22      rects and controls the work of the H-1B  
23      worker; or

1                   “(BB) are employed as public school  
2                   kindergarten, elementary, middle school, or  
3                   secondary school teachers.

4                   “(ii)(I) In the case of an application filed by an  
5                   H-1B-dependent employer, the employer did not dis-  
6                   place and will not displace a United States worker  
7                   employed by the employer within the period begin-  
8                   ning 180 days before the date on which a visa peti-  
9                   tion supported by the application is filed and ending  
10                  180 days after such filing.

11                  “(II) An application described in this clause is  
12                  an application filed on or after the date final regula-  
13                  tions are first promulgated to carry out this sub-  
14                  paragraph, and before by an H-1B-dependent em-  
15                  ployer (as defined in paragraph (3)) or by an em-  
16                  ployer that has been found, on or after the date of  
17                  the enactment of the American Competitiveness and  
18                  Workforce Improvement Act of 1998, under para-  
19                  graph (2)(C) or (5) to have committed a willful fail-  
20                  ure or misrepresentation during the 5-year period  
21                  preceding the filing of the application.

22                  “(iii) In this subparagraph, the term ‘job zone’  
23                  means a zone assigned to an occupation by—



1           “(iii) if the employer is an H–1B skilled  
2           worker dependent employer, has offered the job  
3           to any United States worker who applies and is  
4           equally or better qualified for the job for which  
5           the nonimmigrant or nonimmigrants is or are  
6           sought.”.

7           (d)   OUTPLACEMENT.—Section   212(n)(1)(F)   (8  
8   U.S.C. 1182(n)(1)(F)) is amended to read as follows:

9           “(F)(i) An H–1B-dependent employer may  
10          not place, outsource, lease, or otherwise con-  
11          tract for the services or placement of an H–1B  
12          nonimmigrant employee.

13          “(ii) An employer that is not an H–1B-de-  
14          pendent employer and not described in para-  
15          graph (3)(A)(i) may not place, outsource, lease,  
16          or otherwise contract for the services or place-  
17          ment of an H–1B nonimmigrant employee un-  
18          less the employer pays a fee of \$500 per  
19          outplaced worker.

20          “(iii) A fee collected under clause (ii) shall  
21          be deposited in the Comprehensive Immigration  
22          Reform Trust Fund established under section 6  
23          of the Border Security, Economic Opportunity,  
24          and Immigration Modernization Act.

1                   “(iv) An H–1B dependent employer shall  
2                   be exempt from the prohibition on outplacement  
3                   under clause (i) if the employer is a nonprofit  
4                   institution of higher education, a nonprofit re-  
5                   search organization, or primarily a health care  
6                   business and is petitioning for a physician, a  
7                   nurse, or a physical therapist or a substantially  
8                   equivalent health care occupation. Such em-  
9                   ployer shall be subject to the fee set forth in  
10                  clause (ii).”.

11               (e) H–1B-DEPENDENT EMPLOYER DEFINED.—Sec-  
12               tion 212(n)(3) (8 U.S.C. 1182(n)(3)) is amended to read  
13               as follows:

14               “(3)(A) The term ‘H–1B-dependent employer’ means  
15               an employer (other than nonprofit education and research  
16               institutions) that—

17                   “(i) in the case of an employer that has 25 or  
18                   fewer full-time equivalent employees who are em-  
19                   ployed in the United States, employs more than 7  
20                   H–1B nonimmigrants;

21                   “(ii) in the case of an employer that has at  
22                   least 26 but not more than 50 full-time equivalent  
23                   employees who are employed in the United States,  
24                   employs more than 12 H–1B nonimmigrants; or

1           “(iii) in the case of an employer that has at  
2           least 51 full-time equivalent employees who are em-  
3           ployed in the United States, employs H-1B non-  
4           immigrants in a number that is equal to at least 15  
5           percent of the number of such full-time equivalent  
6           employees.

7           “(B) In determining the number of employees who  
8           are H-1B nonimmigrants under subparagraph (A)(ii), an  
9           intending immigrant employee shall not count toward such  
10          number.”.

11          (f) H-1B SKILLED WORKER DEPENDENT DE-  
12          FINED.—Section 212(n)(3) (8 U.S.C. 1182(n)(3)) is  
13          amended—

14                 (1) by redesignating subparagraph (B) as sub-  
15                 paragraph (D); and

16                 (2) by inserting after subparagraph (A) the fol-  
17                 lowing:

18           “(B)(i) For purposes of this subsection, an ‘H-1B  
19           skilled worker dependent employer’ means an employer  
20           (other than nonprofit education and research institutions)  
21           that employs H-1B nonimmigrants in the United States  
22           in a number that in total is equal to at least 15 percent  
23           of the number of its full-time equivalent employees in the  
24           United States employed in occupations contained within

1 Occupational Information Network Database (O\*NET)  
2 Job Zone 4 and Job Zone 5.

3 “(ii) An H–1B nonimmigrant who is an intending im-  
4 migrant shall be counted as a United States worker in  
5 making a determination under clause (i).”.

6 (g) INTENDING IMMIGRANTS DEFINED.—Section  
7 101(a) (8 U.S.C. 1101(a)), as amended by section  
8 3504(a), is further amended by adding at the end the fol-  
9 lowing:

10 “(54)(A) The term ‘intending immigrant’  
11 means, with respect to the number of aliens em-  
12 ployed by an employer, an alien who intends to work  
13 and reside permanently in the United States, as evi-  
14 denced by—

15 “(i) a pending or approved application for  
16 a labor certification filed for such alien by a  
17 covered employer; or

18 “(ii) a pending or approved immigrant sta-  
19 tus petition filed for such alien by a covered  
20 employer.

21 “(B) In this paragraph:

22 “(i) The term ‘covered employer’ means an  
23 employer that has filed immigrant status peti-  
24 tions for not less than 90 percent of current  
25 employees who were the beneficiaries of applica-



1           tions for labor certification that were approved  
2           during the 1-year period ending 6 months be-  
3           fore the filing of an application or petition for  
4           which the number of intending immigrants is  
5           relevant.

6           “(ii) The term ‘immigrant status petition’  
7           means a petition filed under paragraph (1), (2),  
8           or (3) of section 203(b).

9           “(iii) The term ‘labor certification’ means  
10          an employment certification under section  
11          212(a)(5)(A).

12          “(C) Notwithstanding any other provision of  
13          law—

14               “(i) for all calculations under this Act, of  
15               the number of aliens admitted pursuant to sub-  
16               paragraph (H)(i)(b) or (L) of paragraph (15),  
17               an intending immigrant shall be counted as an  
18               alien lawfully admitted for permanent residence  
19               and shall not be counted as an employee admit-  
20               ted pursuant to such a subparagraph; and

21               “(ii) for all determinations of the number  
22               of employees or United States workers em-  
23               ployed by an employer, all of the employees in  
24               any group treated as a single employer under  
25               subsection (b), (c), (m), or (o) of section 414 of

1 the Internal Revenue Code of 1986 shall be  
2 counted.”.

3 **SEC. 4212. REQUIREMENTS FOR ADMISSION OF NON-**  
4 **IMMIGRANT NURSES IN HEALTH PROFES-**  
5 **SIONAL SHORTAGE AREAS.**

6 (a) EXTENSION OF PERIOD OF AUTHORIZED ADMIS-  
7 SION.—Section 212(m)(3) (8 U.S.C. 1182(m)(3)) is  
8 amended to read as follows:

9 “(3) The initial period of authorized admission as a  
10 nonimmigrant under section 101(a)(15)(H)(i)(c) shall be  
11 3 years, and may be extended once for an additional 3-  
12 year period.”.

13 (b) NUMBER OF VISAS.—Section 212(m)(4) (8  
14 U.S.C. 1182(m)(4)) is amended by striking “500.” and  
15 inserting “300.”.

16 (c) PORTABILITY.—Section 214(n) (8 U.S.C.  
17 1184(n)), as amended by section 4103(b), is further  
18 amended by adding at the end the following:

19 “(4)(A) A nonimmigrant alien described in subpara-  
20 graph (B) who was previously issued a visa or otherwise  
21 provided nonimmigrant status under section  
22 101(a)(15)(H)(i)(c) is authorized to accept new employ-  
23 ment performing services as a registered nurse for a facil-  
24 ity described in section 212(m)(6) upon the filing by the  
25 prospective employer of a new petition on behalf of such

1 nonimmigrant as provided under subsection (c). Employ-  
2 ment authorization shall continue for such alien until the  
3 new petition is adjudicated. If the new petition is denied,  
4 such authorization shall cease.

5 “(B) A nonimmigrant alien described in this para-  
6 graph is a nonimmigrant alien—

7 “(i) who has been lawfully admitted into the  
8 United States;

9 “(ii) on whose behalf an employer has filed a  
10 nonfrivolous petition for new employment before the  
11 date of expiration of the period of stay authorized by  
12 the Secretary of Homeland Security, except that, if  
13 a nonimmigrant described in section  
14 101(a)(15)(H)(i)(c) is terminated or laid off by the  
15 nonimmigrant’s employer, or otherwise ceases em-  
16 ployment with the employer, such petition for new  
17 employment shall be filed during the 60-day period  
18 beginning on the date of such termination, lay off,  
19 or cessation; and

20 “(iii) who, subsequent to such lawful admission,  
21 has not been employed without authorization in the  
22 United States before the filing of such petition.”.

23 (d) APPLICABILITY.—

24 (1) IN GENERAL.—Beginning on the commence-  
25 ment date described in paragraph (2), the amend-

1       ments made by section 2 of the Nursing Relief for  
2       Disadvantaged Areas Act of 1999 (Public Law 106–  
3       95; 113 Stat. 1313), and the amendments made by  
4       this section, shall apply to classification petitions  
5       filed for nonimmigrant status. This period shall be  
6       in addition to the period described in section 2(e) of  
7       the Nursing Relief for Disadvantaged Areas Act of  
8       1999 (8 U.S.C. 1182 note).

9           (2) COMMENCEMENT DATE.—Not later than 60  
10       days after the date of the enactment of this Act, the  
11       Secretary shall determine whether regulations are  
12       necessary to implement the amendments made by  
13       this section. If the Secretary determines that no  
14       such regulations are necessary, the commencement  
15       date described in this paragraph shall be the date of  
16       such determination. If the Secretary determines that  
17       regulations are necessary to implement any amend-  
18       ment made by this section, the commencement date  
19       described in this paragraph shall be the date on  
20       which such regulations (in final form) take effect.

21   **SEC. 4213. NEW APPLICATION REQUIREMENTS.**

22       Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended  
23   by inserting after clause (iii) of subparagraph (G), as  
24   amended by section 4211(c)(2), the following:

1           “(H)(i) The employer has not advertised any  
2           available position specified in the application in an  
3           advertisement that states or indicates that—

4                   “(I) such position is only available to an  
5           individual who is or will be an H–1B non-  
6           immigrant or an alien participating in optional  
7           practical training pursuant to section  
8           101(a)(15)(F)(i); or

9                   “(II) an individual who is or will be an H–  
10          1B nonimmigrant or participant in such op-  
11          tional practical training shall receive priority or  
12          a preference in the hiring process for such posi-  
13          tion.

14          “(ii) The employer has not solely recruited indi-  
15          viduals who are or who will be H–1B nonimmigrants  
16          or participants in optional practical training pursu-  
17          ant to section 101(a)(15)(F)(i) to fill such position.

18          “(I)(i) If the employer (other than an edu-  
19          cational or research employer) employs 50 or more  
20          employees in the United States, the sum of the num-  
21          ber of such employees who are H–1B nonimmigrants  
22          plus the number of such employees who are non-  
23          immigrants described in section 101(a)(15)(L) may  
24          not exceed—

1           “(I) 75 percent of the total number of em-  
2           ployees, for fiscal year 2015;

3           “(II) 65 percent of the total number of  
4           employees, for fiscal year 2016; and

5           “(III) 50 percent of the total number of  
6           employees, for each fiscal year after fiscal year  
7           2016.

8           “(ii) In this subparagraph:

9           “(I) The term ‘educational or research em-  
10          ployer’ means an employer that is a nonprofit  
11          institution of higher education or a nonprofit  
12          research organization described in section  
13          501(c)(3) of the Internal Revenue Code of 1986  
14          and exempt from taxation under 501(a) of that  
15          Code.

16          “(II) The term ‘H–1B nonimmigrant’  
17          means an alien admitted as a nonimmigrant  
18          pursuant to section 101(a)(15)(H)(i)(b).

19          “(III) The term ‘L nonimmigrant’ means  
20          an alien admitted as a nonimmigrant pursuant  
21          to section 101(a)(15)(L) to provide services to  
22          his or her employer involving specialized knowl-  
23          edge.

24          “(iii) In determining the percentage of employ-  
25          ees of an employer that are H–1B nonimmigrants or

1 L nonimmigrants under clause (i), an intending im-  
2 migrant employee shall not count toward such per-  
3 centage.

4 “(J) The employer shall submit to the Sec-  
5 retary of Homeland Security an annual report that  
6 includes the Internal Revenue Service Form W-2  
7 Wage and Tax Statement filed by the employer for  
8 each H-1B nonimmigrant employed by the employer  
9 during the previous year.”.

10 **SEC. 4214. APPLICATION REVIEW REQUIREMENTS.**

11 (a) TECHNICAL AMENDMENT.—Section 212(n)(1) (8  
12 U.S.C. 1182(n)(1)), as amended by section 4213, is fur-  
13 ther amended in the undesignated paragraph at the end,  
14 by striking “The employer” and inserting the following:

15 “(K) The employer”.

16 (b) APPLICATION REVIEW REQUIREMENTS.—Sub-  
17 paragraph (K) of such section 212(n)(1), as designated  
18 by subsection (a), is amended—

19 (1) by inserting “and through the Department  
20 of Labor’s website, without charge.” after “D.C.”;

21 (2) by striking “only for completeness” and in-  
22 serting “for completeness and evidence of fraud or  
23 misrepresentation of material fact,”;

24 (3) by striking “or obviously inaccurate” and  
25 inserting “, presents evidence of fraud or misrepre-

1       sentation of material fact, or is obviously inac-  
2       curate”;

3           (4) by striking “within 7 days of the” and in-  
4       serting “not later than 14 days after”; and

5           (5) by adding at the end the following: “If the  
6       Secretary’s review of an application identifies evi-  
7       dence of fraud or misrepresentation of material fact,  
8       the Secretary may conduct an investigation and  
9       hearing in accordance with paragraph (2).”.

10       (c) FILING OF PETITION FOR NONIMMIGRANT  
11   WORKER.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as  
12   amended by section 4213, is further amended by adding  
13   at the end the following:

14           “(L) An I–129 Petition for Nonimmigrant  
15   Worker (or similar successor form)—

16           “(i) may be filed by an employer with the  
17       Secretary of Homeland Security prior to the  
18       date the employer receives an approved certifi-  
19       cation described in section 101(a)(15)(H)(i)(b)  
20       from the Secretary of Labor; and

21           “(ii) may not be approved by the Secretary  
22       of Homeland Security until the date such cer-  
23       tification is approved.”.



1 **CHAPTER 2— INVESTIGATION AND DIS-**  
2 **POSITION OF COMPLAINTS AGAINST**  
3 **H-1B EMPLOYERS**

4 **SEC. 4221. GENERAL MODIFICATION OF PROCEDURES FOR**  
5 **INVESTIGATION AND DISPOSITION.**

6 Section 212(n) (8 U.S.C. 1182(n)) is amended—

7 (1) in paragraph (2)(A)—

8 (A) by striking “(A) Subject” and insert-  
9 ing “(A)(i) Subject”;

10 (B) by inserting after the first sentence  
11 the following: “Such process shall include publi-  
12 cizing a dedicated toll-free number and publicly  
13 available Internet website for the submission of  
14 such complaints.”;

15 (C) by striking “12 months” and inserting  
16 “24 months”;

17 (D) by striking the last sentence and in-  
18 serting the following: “The Secretary shall issue  
19 regulations requiring that employers that em-  
20 ploy H-1B nonimmigrants, other than non-  
21 profit institutions of higher education and non-  
22 profit research organizations, through posting  
23 of notices or other appropriate means, inform  
24 their employees of such toll-free number and

1 Internet website and of their right to file com-  
2 plaints pursuant to this paragraph.”; and

3 (E) by adding at the end the following:

4 “(ii)(I) Upon the receipt of such a com-  
5 plaint, the Secretary may initiate an investiga-  
6 tion to determine if such a failure or misrepresen-  
7 tation has occurred.

8 “(II) The Secretary may conduct voluntary  
9 surveys of the degree to which employers com-  
10 ply with the requirements of this subsection.

11 “(III) The Secretary shall—

12 “(aa) conduct annual compliance au-  
13 dits of each employer with more than 100  
14 employees who work in the United States  
15 if more than 15 percent of such employees  
16 are H–1B nonimmigrants; and

17 “(bb) make available to the public an  
18 executive summary or report describing the  
19 general findings of the audits carried out  
20 pursuant to this subclause.”; and

21 (2) by adding at the end the following new  
22 paragraph:

23 “(6) REPORT REQUIRED.—Not later than 1  
24 year after the date of the enactment of the Border  
25 Security, Economic Opportunity, and Immigration

1 Modernization Act, and every 5 years thereafter, the  
2 Inspector General of the Department of Labor shall  
3 submit a report regarding the Secretary's enforce-  
4 ment of the requirements of this section to the Com-  
5 mittee on the Judiciary and the Committee on  
6 Health, Education, Labor, and Pensions of the Sen-  
7 ate and the Committee on the Judiciary and the  
8 Committee on Education and the Workforce of the  
9 House of Representatives.”.

10 **SEC. 4222. INVESTIGATION, WORKING CONDITIONS, AND**  
11 **PENALTIES.**

12 Subparagraph (C) of section 212(n)(2) (8 U.S.C.  
13 1182(n)(2)) is amended—

14 (1) in clause (i)—

15 (A) in the matter preceding subclause

16 (I)—

17 (i) by striking “a condition of para-  
18 graph (1)(B), (1)(E), or (1)(F)” and in-  
19 serting “a condition under subparagraph  
20 (A), (B), (C)(i), (E), (F), (G), (H), (I), or  
21 (J) of paragraph (1)”; and

22 (ii) by striking “(1)(C)” and inserting  
23 “(1)(C)(ii)”;

24 (B) in subclause (I)—

1 (i) by striking “\$1,000” and inserting  
2 “\$2,000”; and

3 (ii) by striking “and” at the end;

4 (C) in subclause (II), by striking the pe-  
5 riod at the end and inserting a semicolon and  
6 “and”; and

7 (D) by adding at the end the following:

8 “(III) an employer that violates such subpara-  
9 graph (A) shall be liable to any employee harmed by  
10 such violations for lost wages and benefits.”; and

11 (2) in clause (ii)—

12 (A) in subclause (I)—

13 (i) by striking “may” and inserting  
14 “shall”; and

15 (ii) by striking “\$5,000” and insert-  
16 ing “\$10,000”;

17 (B) in subclause (II), by striking the pe-  
18 riod at the end and inserting a semicolon and  
19 “and”; and

20 (C) by adding at the end the following:

21 “(III) an employer that violates such subpara-  
22 graph (A) shall be liable to any employee harmed by  
23 such violations for lost wages and benefits.”;

24 (3) in clause (iii)—

1 (A) in the matter preceding subclause (I),  
2 by striking “90 days” both places it appears  
3 and inserting “180 days”;

4 (B) in subclause (I)—

5 (i) by striking “may” and inserting  
6 “shall”; and

7 (ii) by striking “and” at the end;

8 (C) in subclause (II), by striking the pe-  
9 riod at the end and inserting a semicolon and  
10 “and”; and

11 (D) by adding at the end the following:

12 “(III) an employer that violates subparagraph  
13 (A) of such paragraph shall be liable to any em-  
14 ployee harmed by such violations for lost wages and  
15 benefits.”;

16 (4) in clause (iv)—

17 (A) by inserting “to take, or threaten to  
18 take, a personnel action, or” before “to intimi-  
19 date”;

20 (B) by inserting “(I)” after “(iv)”; and

21 (C) by adding at the end the following:

22 “(II) An employer that violates this clause shall  
23 be liable to any employee harmed by such violation  
24 for lost wages and benefits.”; and

25 (5) in clause (vi)—

1           (A) by amending subclause (I) to read as  
2 follows:

3           “(I) It is a violation of this clause for an em-  
4 ployer who has filed an application under this sub-  
5 section—

6           “(aa) to require an H–1B nonimmigrant to  
7 pay a penalty for ceasing employment with the  
8 employer prior to a date agreed to by the non-  
9 immigrant and the employer (the Secretary  
10 shall determine whether a required payment is  
11 a penalty, and not liquidated damages, pursu-  
12 ant to relevant State law); and

13           “(bb) to fail to offer to an H–1B non-  
14 immigrant, during the nonimmigrant’s period of  
15 authorized employment, on the same basis, and  
16 in accordance with the same criteria, as the em-  
17 ployer offers to similarly situated United States  
18 workers, benefits and eligibility for benefits, in-  
19 cluding—

20           “(AA) the opportunity to participate  
21 in health, life, disability, and other insur-  
22 ance plans;

23           “(BB) the opportunity to participate  
24 in retirement and savings plans; and

1 “(CC) cash bonuses and noncash com-  
2 pensation, such as stock options (whether  
3 or not based on performance).”; and  
4 (B) in subclause (III), by striking  
5 “\$1,000” and inserting “\$2,000”.

6 **SEC. 4223. INITIATION OF INVESTIGATIONS.**

7 Subparagraph (G) of section 212(n)(2) (8 U.S.C.  
8 1182(n)(2)) is amended—

9 (1) in clause (i), by striking “if the Secretary”  
10 and all that follows and inserting “with regard to  
11 the employer’s compliance with the requirements of  
12 this subsection.”;

13 (2) in clause (ii), by striking “and whose iden-  
14 tity” and all that follows through “failure or fail-  
15 ures.” and inserting “the Secretary of Labor may  
16 conduct an investigation into the employer’s compli-  
17 ance with the requirements of this subsection.”;

18 (3) in clause (iii), by striking the last sentence;

19 (4) by striking clauses (iv) and (v);

20 (5) by redesignating clauses (vi), (vii), and (viii)  
21 as clauses (iv), (v), and (vi), respectively;

22 (6) in clause (iv), as so redesignated, by strik-  
23 ing “meet a condition described in clause (ii), unless  
24 the Secretary of Labor receives the information not  
25 later than 12 months” and inserting “comply with

1 the requirements under this subsection, unless the  
2 Secretary of Labor receives the information not later  
3 than 24 months”;

4 (7) by amending clause (v), as so redesignated,  
5 to read as follows:

6 “(v) The Secretary of Labor shall provide no-  
7 tice to an employer of the intent to conduct an in-  
8 vestigation. The notice shall be provided in such a  
9 manner, and shall contain sufficient detail, to permit  
10 the employer to respond to the allegations before an  
11 investigation is commenced. The Secretary is not re-  
12 quired to comply with this clause if the Secretary de-  
13 termines that such compliance would interfere with  
14 an effort by the Secretary to investigate or secure  
15 compliance by the employer with the requirements of  
16 this subsection. A determination by the Secretary  
17 under this clause shall not be subject to judicial re-  
18 view.”;

19 (8) in clause (vi), as so redesignated, by strik-  
20 ing “An investigation” and all that follows through  
21 “the determination.” and inserting “If the Secretary  
22 of Labor, after an investigation under clause (i) or  
23 (ii), determines that a reasonable basis exists to  
24 make a finding that the employer has failed to com-  
25 ply with the requirements under this subsection, the



1 Secretary shall provide interested parties with notice  
2 of such determination and an opportunity for a  
3 hearing in accordance with section 556 of title 5,  
4 United States Code, not later than 120 days after  
5 the date of such determination.”; and

6 (9) by adding at the end the following:

7 “(vii) If the Secretary of Labor, after a hear-  
8 ing, finds a reasonable basis to believe that the em-  
9 ployer has violated the requirements under this sub-  
10 section, the Secretary shall impose a penalty under  
11 subparagraph (C).”.

12 **SEC. 4224. INFORMATION SHARING.**

13 Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended  
14 by sections 4222 and 4223, is further amended by adding  
15 at the end the following:

16 “(J) The Director of U.S. Citizenship and Immigra-  
17 tion Services shall provide the Secretary of Labor with any  
18 information contained in the materials submitted by em-  
19 ployers of H–1B nonimmigrants as part of the adjudica-  
20 tion process that indicates that the employer is not com-  
21 plying with visa program requirements for H–1B non-  
22 immigrants. The Secretary of Labor may initiate and con-  
23 duct an investigation related to H–1B nonimmigrants and  
24 a hearing under this paragraph after receiving information  
25 of noncompliance under this subparagraph. This subpara-

1 graph may not be construed to prevent the Secretary of  
2 Labor from taking action related to wage and hour and  
3 workplace safety laws.

4 “(K) The Secretary of Labor shall facilitate the post-  
5 ing of the descriptions described in paragraph (1)(C)(i)  
6 on the Internet website of the State labor or workforce  
7 agency for the State in which the position will be primarily  
8 located during the same period as the posting under para-  
9 graph (1)(C)(i).”.

10 **SEC. 4225. TRANSPARENCY OF HIGH-SKILLED IMMIGRA-**  
11 **TION PROGRAMS.**

12 Section 416(c) of the American Competitiveness and  
13 Workforce Improvement Act of 1998 (8 U.S.C. 1184 note)  
14 is amended—

15 (1) by amending paragraph (2) to read as fol-  
16 lows:

17 “(2) ANNUAL H-1B NONIMMIGRANT CHARAC-  
18 TERISTICS REPORT.—The Bureau of Immigration  
19 and Labor Market Research shall submit an annual  
20 report to the Committee on the Judiciary of the  
21 Senate and the Committee on the Judiciary of the  
22 House of Representatives that contains—

23 “(A) information on the countries of origin  
24 of, occupations of, educational levels attained  
25 by, and compensation paid to, aliens who were

1           issued visas or otherwise provided non-  
2           immigrant status under section  
3           101(a)(15)(H)(i)(b) of the Immigration and  
4           Nationality Act (8 U.S.C.  
5           1101(a)(15)(H)(i)(b)) during the previous fiscal  
6           year;

7           “(B) a list of all employers who petition  
8           for H–1B visas, the number of such petitions  
9           filed and approved for each such employer, the  
10          occupational classifications for the approved po-  
11          sitions, and the number of H–1B non-  
12          immigrants for whom each such employer files  
13          for adjustment to permanent resident status;

14          “(C) the number of immigrant status peti-  
15          tions filed during the prior year on behalf of H–  
16          1B nonimmigrants;

17          “(D) a list of all employers who are H–1B-  
18          dependent employers;

19          “(E) a list of all employers who are H–1B  
20          skilled worker dependent employers;

21          “(F) a list of all employers for whom more  
22          than 30 percent of their United States work-  
23          force is H–1B or L–1 nonimmigrants;

1           “(G) a list of all employers for whom more  
2           than 50 percent of their United States work-  
3           force is H–1B or L–1 nonimmigrants;

4           “(H) a gender breakdown by occupation  
5           and by country of H–1B nonimmigrants;

6           “(I) a list of all employers who have been  
7           approved to conduct outplacement of H–1B  
8           nonimmigrants; and

9           “(J) the number of H–1B nonimmigrants  
10          categorized by their highest level of education  
11          and whether such education was obtained in the  
12          United States or in a foreign country.”;

13          (2) by redesignating paragraph (3) as para-  
14          graph (5);

15          (3) by inserting after paragraph (2) the fol-  
16          lowing:

17               “(3) ANNUAL L–1 NONIMMIGRANT CHARACTER-  
18               ISTICS REPORT.—The Bureau of Immigration and  
19               Labor Market Research shall submit an annual re-  
20               port to the Committee on the Judiciary of the Sen-  
21               ate and the Committee on the Judiciary of the  
22               House of Representatives that contains—

23                       “(A) information on the countries of origin  
24                       of, occupations of, educational levels attained  
25                       by, and compensation paid to, aliens who were

1           issued visas or otherwise provided –non-  
2           immigrant status under section 101(a)(15)(L)  
3           of the Immigration and Nationality Act (8  
4           U.S.C. 1101(a)(15)(L)) during the previous fis-  
5           cal year;

6           “(B) a list of all employers who petition  
7           for L–1 visas, the number of such petitions  
8           filed and approved for each such employer, the  
9           occupational classifications for the approved po-  
10          sitions, and the number of L–1 nonimmigrants  
11          for whom each such employer files for adjust-  
12          ment to permanent resident status;

13          “(C) the number of immigrant status peti-  
14          tions filed during the prior year on behalf of L–  
15          1 nonimmigrants;

16          “(D) a list of all employers who are L–1  
17          dependent employers;

18          “(E) a gender breakdown by occupation  
19          and by country of L–1 nonimmigrants;

20          “(F) a list of all employers who have been  
21          approved to conduct outplacement of L–1 non-  
22          immigrants; and

23          “(G) the number of L–1 nonimmigrants  
24          categorized by their highest level of education

1           and whether such education was obtained in the  
2           United States or in a foreign country.

3           “(4) ANNUAL EMPLOYER SURVEY.—The Bu-  
4           reau of Immigration and Labor Market Research  
5           shall—

6                   “(A) conduct an annual survey of employ-  
7           ers hiring foreign nationals under the L–1 visa  
8           program; and

9                   “(B) shall issue an annual report that—

10                           “(i) describes the methods employers  
11                           are using to meet the requirement of tak-  
12                           ing good faith steps to recruit United  
13                           States workers for the occupational classi-  
14                           fication for which the nonimmigrants are  
15                           sought, using procedures that meet indus-  
16                           try-wide standards;

17                           “(ii) describes the best practices for  
18                           recruiting among employers; and

19                           “(iii) contains recommendations on  
20                           which recruiting steps employers can take  
21                           to maximize the likelihood of hiring Amer-  
22                           ican workers.”; and

23           (4) in paragraph (5), as redesignated, by strik-  
24           ing “paragraph (2)” and inserting “paragraphs (2)  
25           and (3)”.

1       **CHAPTER 3—OTHER PROTECTIONS**

2       **SEC. 4231. POSTING AVAILABLE POSITIONS THROUGH THE**  
3               **DEPARTMENT OF LABOR.**

4       (a) DEPARTMENT OF LABOR WEBSITE.—Section  
5 212(n) (8 U.S.C. 1182(n)), as amended by section  
6 4221(2), is further amended by adding at the end fol-  
7 lowing:

8       “(7)(A) Not later than 90 days after the date of the  
9 enactment of the Border Security, Economic Opportunity,  
10 and Immigration Modernization Act, the Secretary of  
11 Labor shall establish a searchable Internet website for  
12 posting positions as required by paragraph (1)(C). Such  
13 website shall be available to the public without charge.

14       “(B) The Secretary may work with private companies  
15 or nonprofit organizations to develop and operate the  
16 Internet website described in subparagraph (A).

17       “(C) The Secretary may promulgate rules, after no-  
18 tice and a period for comment, to carry out the require-  
19 ments of this paragraph.”.

20       (b) REQUIREMENT FOR PUBLICATION.—The Sec-  
21 retary of Labor shall submit to Congress and publish in  
22 the Federal Register and other appropriate media a notice  
23 of the date that the Internet website required by para-  
24 graph (6) of section 212(n) of the Immigration and Na-

1 tionality Act, as amended by subsection (a), will be oper-  
2 ational.

3 (c) APPLICATION.—The amendments made by sub-  
4 section (a) shall apply to an application filed on or after  
5 the date that is 30 days after the date described in sub-  
6 section (b).

7 **SEC. 4232. REQUIREMENTS FOR INFORMATION FOR H-1B**  
8 **AND L NONIMMIGRANTS.**

9 (a) IN GENERAL.—Section 214 (8 U.S.C. 1184), as  
10 amended by section 3608, is further amended by adding  
11 at the end the following:

12 “(t) REQUIREMENTS FOR INFORMATION FOR H-1B  
13 AND L NONIMMIGRANTS.—

14 “(1) IN GENERAL.—Upon issuing a visa to an  
15 applicant for nonimmigrant status pursuant to sub-  
16 paragraph (H)(i)(b) or (L) of section 101(a)(15)  
17 who is outside the United States, the issuing office  
18 shall provide the applicant with—

19 “(A) a brochure outlining the obligations  
20 of the applicant’s employer and the rights of  
21 the applicant with regard to employment under  
22 Federal law, including labor and wage protec-  
23 tions; and

24 “(B) the contact information for appro-  
25 priate Federal agencies or departments that



1 offer additional information or assistance in  
2 clarifying such obligations and rights.

3 “(2) PROVISION OF MATERIAL.—Upon the ap-  
4 proval of an application of an applicant referred to  
5 in paragraph (1), the applicant shall be provided  
6 with the material described in subparagraphs (A)  
7 and (B) of paragraph (1)—

8 “(A) by the issuing officer of the Depart-  
9 ment of Homeland Security, if the applicant is  
10 inside the United States; or

11 “(B) by the appropriate official of the De-  
12 partment of State, if the applicant is outside  
13 the United States.

14 “(3) EMPLOYER TO PROVIDE IMMIGRATION PA-  
15 PERWORK EXCHANGED WITH FEDERAL AGENCIES.—

16 “(A) IN GENERAL.—Not later than 30  
17 days after a labor condition application is filed  
18 under section 212(n)(1), an employer shall pro-  
19 vide an employee or beneficiary of such applica-  
20 tion who is or seeking nonimmigrant status  
21 under subparagraph (H)(i)(b) or (L) of section  
22 101(a)(15) with a copy the original of all appli-  
23 cations and petitions filed by the employer with  
24 the Department of Labor or the Department of

1 Homeland Security for such employee or bene-  
2 ficiary.

3 “(B) WITHHOLDING OF FINANCIAL OR  
4 PROPRIETARY INFORMATION.—If a document  
5 required to be provided to an employee or bene-  
6 ficiary under subparagraph (A) includes any fi-  
7 nancial or propriety information of the em-  
8 ployer, the employer may redact such informa-  
9 tion from the copies provided to such employee  
10 or beneficiary.”.

11 (b) REPORT ON JOB CLASSIFICATION AND WAGE  
12 DETERMINATIONS.—Not later than 1 year after the date  
13 of the enactment of this Act, the Comptroller General of  
14 the United States shall prepare a report analyzing the ac-  
15 curacy and effectiveness of the Secretary of Labor’s cur-  
16 rent job classification and wage determination system. The  
17 report shall—

18 (1) specifically address whether the systems in  
19 place accurately reflect the complexity of current job  
20 types as well as geographic wage differences; and

21 (2) make recommendations concerning nec-  
22 essary updates and modifications.

23 **SEC. 4233. FILING FEE FOR H-1B-DEPENDENT EMPLOYERS.**

24 (a) IN GENERAL.—Notwithstanding any other provi-  
25 sion of law, there shall be a fee required to be submitted

1 by an employer with an application for admission of an  
2 H–1B nonimmigrant as follows:

3 (1) For each fiscal year beginning in fiscal year  
4 2015, \$5,000 for applicants that employ 50 or more  
5 employees in the United States if more than 30 per-  
6 cent and less than 50 percent of the applicant’s em-  
7 ployees are H–1B nonimmigrants or L non-  
8 immigrants.

9 (2) For each of the fiscal years 2015 through  
10 2017, \$10,000 for applicants that employ 50 or  
11 more employees in the United States if more than  
12 50 percent and less than 75 percent of the appli-  
13 cant’s employees are H–1B nonimmigrants or L  
14 nonimmigrants. Fees collected under this paragraph  
15 shall be deposited in the Comprehensive Immigration  
16 Reform Trust Fund established under section  
17 6(a)(1).

18 (b) DEFINITIONS.—In this section:

19 (1) EMPLOYER.—The term “employer”—

20 (A) means any entity or entities treated as  
21 a single employer under subsection (b), (c),  
22 (m), or (o) of section 414 of the Internal Rev-  
23 enue Code of 1986; and

24 (B) does not include a nonprofit institution  
25 of higher education or a nonprofit research or-

1           ganization described in section 501(c)(3) of the  
2           Internal Revenue Code of 1986 and exempt  
3           from taxation under 501(a) of that Code that  
4           is—

5                   (i) an institution of higher education  
6                   (as defined in section 101(a) of the Higher  
7                   Education Act of 1965 (20 U.S.C.  
8                   1001(a))); or

9                   (ii) a research organization.

10           (2) H-1B NONIMMIGRANT.—The term “H-1B  
11           nonimmigrant” means an alien admitted as a non-  
12           immigrant pursuant to section 101(a)(15)(H)(i)(b)  
13           of the Immigration and Nationality Act (8 U.S.C.  
14           1101(a)(15)(H)(i)(b)).

15           (3) INTENDING IMMIGRANT.—The term “in-  
16           tending immigrant” has the meaning given that  
17           term in paragraph (54)(A) of section 101(a)(54)(A)  
18           of the Immigration and Nationality Act (8 U.S.C.  
19           1101(a)).

20           (4) L NONIMMIGRANT.—The term “L non-  
21           immigrant” means an alien admitted as a non-  
22           immigrant pursuant to section 101(a)(15)(L) of the  
23           Immigration and Nationality Act (8 U.S.C.  
24           1101(a)(15)(L)) to provide services to the alien’s  
25           employer involving specialized knowledge.

1       (c) EXCEPTION FOR INTENDING IMMIGRANTS.—In  
2 determining the percentage of employees of an employer  
3 that are H–1B nonimmigrants or L nonimmigrants under  
4 subsection (a), an intending immigrant employee shall not  
5 count toward such percentage.

6       (d) CONFORMING AMENDMENT.—Section 402 of the  
7 Act entitled “An Act making emergency supplemental ap-  
8 propriations for border security for the fiscal year ending  
9 September 30, 2010, and for other purposes”, approved  
10 August 13, 2010 (Public Law 111–230; 8 U.S.C. 1101  
11 note) is amended by striking subsection (b).

12 **SEC. 4234. PROVIDING PREMIUM PROCESSING OF EMPLOY-**  
13 **MENT-BASED VISA PETITIONS.**

14 Pursuant to section 286(u) of the Immigration and  
15 Nationality Act (8 U.S.C. 1356(u)), the Secretary shall  
16 establish and collect—

17       (1) a fee for premium processing of employ-  
18 ment-based immigrant petitions; and

19       (2) a fee for premium processing of an adminis-  
20 trative appeal of any decision on a permanent em-  
21 ployment-based immigrant petition.

22 **SEC. 4235. TECHNICAL CORRECTION.**

23 Section 212 (8 U.S.C. 1182) is amended by redesign-  
24 nating the second subsection (t), as added by section  
25 1(b)(2)(B) of the Act entitled “An Act to amend and ex-

1 tend the Irish Peace Process Cultural and Training Pro-  
2 gram Act of 1998” (Public Law 108–449 (118 Stat.  
3 3470)), as subsection (u).

4 **SEC. 4236. APPLICATION.**

5 (a) IN GENERAL.—Except as otherwise specifically  
6 provided, the amendments made by this subtitle shall  
7 apply to applications filed on or after the date of the en-  
8 actment of this Act.

9 (b) SPECIAL REQUIREMENTS.—Notwithstanding any  
10 other provision of law, the amendments made by section  
11 4211(c) shall not apply to any application or petition filed  
12 by an employer on behalf of an existing employee.

13 **SEC. 4237. PORTABILITY FOR BENEFICIARIES OF IMMI-**  
14 **GRANT PETITIONS.**

15 (a) INCREASED PORTABILITY.—Section 204(j) (8  
16 U.S.C. 1154(j)) is amended—

17 (1) by amending the subsection heading to read  
18 as follows:

19 “(j) INCREASED PORTABILITY.—”;

20 (2) by striking “A petition” and inserting the  
21 following:

22 “(1) LONG DELAYED APPLICANTS FOR ADJUST-  
23 MENT OF STATUS.—A petition”; and

24 (3) by adding at the end the following:

1           “(2) PORTABILITY FOR BENEFICIARIES OF IM-  
2           MIGRANT PETITIONS.—Regardless of whether an em-  
3           ployer withdraws a petition approved under para-  
4           graph (1), (2), or (3) of section 203(b)—

5                   “(A) the petition shall remain valid with  
6           respect to a new job if—

7                           “(i) the beneficiary changes jobs or  
8                           employers after the petition is approved;  
9                           and

10                          “(ii) the new job is in the same or a  
11                          similar occupational classification as the  
12                          job for which the petition was approved;  
13                          and

14                          “(B) the employer’s legal obligations with  
15           respect to the petition shall terminate at the  
16           time the beneficiary changes jobs or employers.

17           “(3) DOCUMENTATION.—The Secretary of  
18           Labor shall develop a mechanism to provide the ben-  
19           eficiary or prospective employer with sufficient infor-  
20           mation to determine whether a new position or job  
21           is in the same or similar occupation as the job for  
22           which the petition was approved. The Secretary of  
23           Labor shall provide confirmation of application ap-  
24           proval if required for eligibility under this sub-  
25           section. The Secretary of Homeland Security shall

1 provide confirmation of petition approval if required  
2 for eligibility under this subsection.”.

3 (b) ADJUSTMENT OF STATUS FOR EMPLOYMENT-  
4 BASED IMMIGRANTS.—Section 245 of the Immigration  
5 and Nationality Act (8 U.S.C. 1255) is amended by add-  
6 ing at the end the following:

7 “(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-  
8 BASED IMMIGRANTS.—

9 “(1) PETITION.—An alien, and any eligible de-  
10 pendents of such alien, who has filed a petition for  
11 immigrant status, may concurrently, or at any time  
12 thereafter, file an application with the Secretary of  
13 Homeland Security for adjustment of status if such  
14 petition is pending or has been approved, regardless  
15 of whether an immigrant visa is immediately avail-  
16 able at the time the application is filed.

17 “(2) SUPPLEMENTAL FEE.—If a visa is not im-  
18 mediately available at the time an application is filed  
19 under paragraph (1), the beneficiary of such applica-  
20 tion shall pay a supplemental fee of \$500, which  
21 shall be deposited in the STEM Education and  
22 Training Account established under section 286(w).  
23 This fee shall not be collected from any dependent  
24 accompanying or following to join such beneficiary.



1           “(3) AVAILABILITY.—An application filed pur-  
2           suant to paragraph (2) may not be approved until  
3           the date on which an immigrant visa becomes avail-  
4           able.”.

5           **Subtitle C—L Visa Fraud and**  
6           **Abuse Protections**

7           **SEC. 4301. PROHIBITION ON OUTPLACEMENT OF L NON-**  
8           **IMMIGRANTS.**

9           Section 214(c)(2)(F) (8 U.S.C. 1184(c)(2)(F)) is  
10          amended to read as follows:

11          “(F)(i) An employer who employs L-1 nonimmigrants  
12          in a number that is equal to at least 15 percent of the  
13          total number of full-time equivalent employees employed  
14          by the employer shall not place, outsource, lease, or other-  
15          wise contract for the services or placement of such alien  
16          with another employer. In determining the number of em-  
17          ployees who are L-1 nonimmigrants, an intending immi-  
18          grant shall count as a United States worker.

19          “(ii) The employer of an alien described in section  
20          101(a)(15)(L) shall not place, outsource, lease, or other-  
21          wise contract for the services or placement of such alien  
22          with another employer unless—

23                 “(I) such alien will not be controlled or super-  
24                 vised principally by the employer with whom such  
25                 alien would be placed;

1           “(II) the placement of such alien at the work-  
2           site of the other employer is not essentially an ar-  
3           rangement to provide labor for hire for the other  
4           employer; and

5           “(III) the employer of such alien pays a fee of  
6           \$500, which shall be deposited in the STEM Edu-  
7           cation and Training Account established under sec-  
8           tion 286(w).”.

9   **SEC. 4302. L EMPLOYER PETITION REQUIREMENTS FOR**  
10                   **EMPLOYMENT AT NEW OFFICES.**

11           Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended  
12   by adding at the end the following:

13           “(G)(i) If the beneficiary of a petition under this  
14   paragraph is coming to the United States to open, or be  
15   employed in, a new office, the petition may be approved  
16   for up to 12 months only if—

17           “(I) the alien has not been the beneficiary of 2  
18   or more petitions under this subparagraph during  
19   the immediately preceding 2 years; and

20           “(II) the employer operating the new office  
21   has—

22                   “(aa) an adequate business plan;

23                   “(bb) sufficient physical premises to carry  
24   out the proposed business activities; and

1                   “(cc) the financial ability to commence  
2                   doing business immediately upon the approval  
3                   of the petition.

4                   “(ii) An extension of the approval period under clause  
5 (i) may not be granted until the importing employer sub-  
6 mits an application to the Secretary of Homeland Security  
7 that contains—

8                   “(I) evidence that the importing employer  
9                   meets the requirements of this subsection;

10                  “(II) evidence that the beneficiary of the peti-  
11                  tion is eligible for nonimmigrant status under sec-  
12                  tion 101(a)(15)(L);

13                  “(III) a statement summarizing the original pe-  
14                  tition;

15                  “(IV) evidence that the importing employer has  
16                  complied with the business plan submitted under  
17                  clause (i)(I);

18                  “(V) evidence of the truthfulness of any rep-  
19                  resentations made in connection with the filing of  
20                  the original petition;

21                  “(VI) evidence that the importing employer has  
22                  been doing business at the new office through reg-  
23                  ular, systematic, and continuous provision of goods  
24                  and services;

1           “(VII) a statement of the duties the beneficiary  
2           has performed at the new office during the approval  
3           period under clause (i) and the duties the beneficiary  
4           will perform at the new office during the extension  
5           period granted under this clause;

6           “(VIII) a statement describing the staffing at  
7           the new office, including the number of employees  
8           and the types of positions held by such employees;

9           “(IX) evidence of wages paid to employees;

10          “(X) evidence of the financial status of the new  
11          office; and

12          “(XI) any other evidence or data prescribed by  
13          the Secretary.

14          “(iii) A new office employing the beneficiary of an  
15          L-1 petition approved under this paragraph shall do busi-  
16          ness only through regular, systematic, and continuous pro-  
17          vision of goods and services.

18          “(iv) Notwithstanding clause (ii), and subject to the  
19          maximum period of authorized admission set forth in sub-  
20          paragraph (D), the Secretary of Homeland Security, in  
21          the Secretary’s discretion, may approve a subsequently  
22          filed petition on behalf of the beneficiary to continue em-  
23          ployment at the office described in this subparagraph for  
24          a period beyond the initially granted 12-month period if  
25          the importing employer has been doing business at the

1 new office through regular, systematic, and continuous  
2 provision of goods and services for the 6 months imme-  
3 diately preceding the date of extension of petition filing  
4 and demonstrates that the failure to satisfy any of the  
5 requirements described in those subclauses was directly  
6 caused by extraordinary circumstances, as determined by  
7 the Secretary in the Secretary's discretion.”.

8 **SEC. 4303. COOPERATION WITH SECRETARY OF STATE.**

9 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended  
10 by section 4302, is further amended by adding at the end  
11 the following:

12 “(H) For purposes of approving petitions under this  
13 paragraph, the Secretary of Homeland Security shall work  
14 cooperatively with the Secretary of State to verify the ex-  
15 istence or continued existence of a company or office in  
16 the United States or in a foreign country.”.

17 **SEC. 4304. LIMITATION ON EMPLOYMENT OF L NON-**  
18 **IMMIGRANTS.**

19 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended  
20 by sections 4302 and 4303, is further amended by adding  
21 at the end the following:

22 “(I)(i) If the employer employs 50 or more employees  
23 in the United States, the sum of the number of such em-  
24 ployees who are H–1B nonimmigrants plus the number

1 of such employees who are L nonimmigrants may not ex-  
2 ceed—

3 “(I) 75 percent of the total number of employ-  
4 ees, for fiscal year 2015;

5 “(II) 65 percent of the total number of employ-  
6 ees, for fiscal year 2016; and

7 “(III) 50 percent of the total number of em-  
8 ployees, for each fiscal year after fiscal year 2016.

9 “(ii) In this subparagraph:

10 “(I) The term ‘employer’ does not include a  
11 nonprofit institution of higher education or a non-  
12 profit research organization described in section  
13 501(c)(3) of the Internal Revenue Code of 1986 and  
14 exempt from taxation under 501(a) of that Code  
15 that is—

16 “(aa) an institution of higher education (as  
17 defined in section 101(a) of the Higher Edu-  
18 cation Act of 1965 (20 U.S.C. 1001(a))); or

19 “(bb) a research organization.

20 “(II) The term ‘H–1B nonimmigrant’ means an  
21 alien admitted as a nonimmigrant pursuant to sec-  
22 tion 101(a)(15)(H)(i)(b).

23 “(III) The term ‘L nonimmigrant’ means an  
24 alien admitted as a nonimmigrant pursuant to sec-

1        tion 101(a)(15)(L) to provide services to the alien's  
2        employer involving specialized knowledge.

3        “(iii) In determining the percentage of employees of  
4        an employer that are H–1B nonimmigrants or L non-  
5        immigrants under clause (i), an intending immigrant em-  
6        ployee shall not count toward such percentage.”.

7        **SEC. 4305. FILING FEE FOR L NONIMMIGRANTS.**

8        (a) IN GENERAL.—Notwithstanding any other provi-  
9        sion of law, the filing fee for an application for admission  
10       of an L nonimmigrant shall be as follows:

11            (1) For each of the fiscal years beginning in fis-  
12        cal year 2014, \$5,000 for applicants that employ 50  
13        or more employees in the United States if more than  
14        30 percent and less than 50 percent of the appli-  
15        cant's employees are H–1B nonimmigrants or L  
16        nonimmigrants.

17            (2) For each of the fiscal years 2014 through  
18        2017, \$10,000 for applicants that employ 50 or  
19        more employees in the United States if more than  
20        50 percent and less than 75 percent of the appli-  
21        cant's employees are H–1B nonimmigrants or L  
22        nonimmigrants. Fees collected under this paragraph  
23        shall be deposited in the Comprehensive Immigration  
24        Reform Trust Fund established under section  
25        6(a)(1).

1 (b) DEFINITIONS.—In this section:

2 (1) EMPLOYER.—The term “employer” does  
3 not include a nonprofit institution of higher edu-  
4 cation or a nonprofit research organization described  
5 in section 501(c)(3) of the Internal Revenue Code of  
6 1986 and exempt from taxation under 501(a) of  
7 that Code that is—

8 (A) an institution of higher education (as  
9 defined in section 101(a) of the Higher Edu-  
10 cation Act of 1965 (20 U.S.C. 1001(a))); or

11 (B) a research organization.

12 (2) H–1B NONIMMIGRANT.—The term “H–1B  
13 nonimmigrant” means an alien admitted as a non-  
14 immigrant pursuant to section 101(a)(15)(H)(i)(b)  
15 of the Immigration and Nationality Act (8 U.S.C.  
16 1101(a)(15)(H)(i)(b)).

17 (3) L NONIMMIGRANT.—The term “L non-  
18 immigrant” means an alien admitted as a non-  
19 immigrant pursuant to section 101(a)(15)(L) of the  
20 Immigration and Nationality Act (8 U.S.C.  
21 1101(a)(15)(L)) to provide services to the alien’s  
22 employer involving specialized knowledge.

23 (c) EXCEPTION FOR INTENDING IMMIGRANTS.—In  
24 determining the percentage of employees of an employer  
25 that are H–1B nonimmigrants or L nonimmigrants under



1 subsection (a), an intending immigrant employee (as de-  
2 fined in section 101(a)(54)(A) of the Immigration and Na-  
3 tionality Act shall not count toward such percentage.

4 (d) CONFORMING AMENDMENT.—Section 402 of the  
5 Act entitled “An Act making emergency supplemental ap-  
6 propriations for border security for the fiscal year ending  
7 September 30, 2010, and for other purposes”, approved  
8 August 13, 2010 (Public Law 111–230; 8 U.S.C. 1101  
9 note), as amended by section 4233(d), is further amended  
10 by striking subsections (a) and (c).

11 **SEC. 4306. INVESTIGATION AND DISPOSITION OF COM-**  
12 **PLAINTS AGAINST L NONIMMIGRANT EM-**  
13 **PLOYERS.**

14 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended  
15 by sections 4302, 4303, and 4304 is further amended by  
16 adding at the end the following:

17 “(J)(i) The Secretary of Homeland Security may ini-  
18 tiate an investigation of any employer that employs non-  
19 immigrants described in section 101(a)(15)(L) with re-  
20 gard to the employer’s compliance with the requirements  
21 of this subsection.

22 “(ii)(I) If the Secretary receives specific credible in-  
23 formation from a source who is likely to have knowledge  
24 of an employer’s practices, employment conditions, or  
25 compliance with the requirements under this subsection,

1 the Secretary may conduct an investigation into the em-  
2 ployer's compliance with the requirements of this sub-  
3 section.

4 “(II) The Secretary may withhold the identity of a  
5 source referred to in subclause (I) from an employer and  
6 the identity of such source shall not be subject to dislo-  
7 sure under section 552 of title 5, United States Code.

8 “(iii) The Secretary shall establish a procedure for  
9 any person desiring to provide to the Secretary informa-  
10 tion described in clause (ii)(I) that may be used, in whole  
11 or in part, as the basis for the commencement of an inves-  
12 tigation described in such clause, to provide the informa-  
13 tion in writing on a form developed and provided by the  
14 Secretary and completed by or on behalf of the person.

15 “(iv) No investigation described in clause (ii)(I) (or  
16 hearing described in clause (vi) based on such investiga-  
17 tion) may be conducted with respect to information about  
18 a failure to comply with the requirements under this sub-  
19 section, unless the Secretary receives the information not  
20 later than 24 months after the date of the alleged failure.

21 “(v)(I) Subject to subclause (III), before commencing  
22 an investigation of an employer under clause (i) or (ii),  
23 the Secretary shall provide notice to the employer of the  
24 intent to conduct such investigation.

1       “(II) The notice required by subclause (I) shall be  
2 provided in such a manner, and shall contain sufficient  
3 detail, to permit the employer to respond to the allegations  
4 before an investigation is commenced.

5       “(III) The Secretary is not required to comply with  
6 this clause if the Secretary determines that to do so would  
7 interfere with an effort by the Secretary to investigate or  
8 secure compliance by the employer with the requirements  
9 of this subsection.

10       “(IV) There shall be no judicial review of a deter-  
11 mination by the Secretary under this clause.

12       “(vi) If the Secretary, after an investigation under  
13 clause (i) or (ii), determines that a reasonable basis exists  
14 to make a finding that the employer has failed to comply  
15 with the requirements under this subsection, the Secretary  
16 shall provide the interested parties with notice of such de-  
17 termination and an opportunity for a hearing in accord-  
18 ance with section 556 of title 5, United States Code, not  
19 later than 120 days after the date of such determination.  
20 If such a hearing is requested, the Secretary shall make  
21 a finding concerning the matter by not later than 120 days  
22 after the date of the hearing.

23       “(vii) If the Secretary, after a hearing, finds a rea-  
24 sonable basis to believe that the employer has violated the

1 requirements under this subsection, the Secretary shall  
2 impose a penalty under subparagraph (K).

3 “(viii)(I) The Secretary may conduct voluntary sur-  
4 veys of the degree to which employers comply with the re-  
5 quirements under this section.

6 “(II) The Secretary shall—

7 “(aa) conduct annual compliance audits of each  
8 employer with more than 100 employees who work  
9 in the United States if more than 15 percent of such  
10 employees are nonimmigrants described in  
11 101(a)(15)(L); and

12 “(bb) make available to the public an executive  
13 summary or report describing the general findings of  
14 the audits carried out pursuant to this subclause.”.

15 **SEC. 4307. PENALTIES.**

16 Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended  
17 by sections 4302, 4303, 4304, and 4306, is further  
18 amended by adding at the end the following:

19 “(K)(i) If the Secretary of Homeland Security finds,  
20 after notice and an opportunity for a hearing, a failure  
21 by an employer to meet a condition under subparagraph  
22 (F), (G), or (L) or a misrepresentation of material fact  
23 in a petition to employ 1 or more aliens as nonimmigrants  
24 described in section 101(a)(15)(L)—

1       “(I) the Secretary shall impose such administrative  
2 remedies (including civil monetary penalties in an amount  
3 not to exceed \$2,000 per violation) as the Secretary deter-  
4 mines to be appropriate;

5       “(II) the Secretary may not, during a period of at  
6 least 1 year, approve a petition for that employer to em-  
7 ploy 1 or more aliens as such nonimmigrants; and

8       “(III) in the case of a violation of subparagraph (J),  
9 the employer shall be liable to the employees harmed by  
10 such violation for lost wages and benefits.

11       “(ii) If the Secretary finds, after notice and an oppor-  
12 tunity for a hearing, a willful failure by an employer to  
13 meet a condition under subparagraph (F), (G), or (L) or  
14 a willful misrepresentation of material fact in a petition  
15 to employ 1 or more aliens as nonimmigrants described  
16 in section 101(a)(15)(L)—

17               “(I) the Secretary shall impose such adminis-  
18 trative remedies (including civil monetary penalties  
19 in an amount not to exceed \$10,000 per violation)  
20 as the Secretary determines to be appropriate;

21               “(II) the Secretary may not, during a period of  
22 at least 2 years, approve a petition filed for that em-  
23 ployer to employ 1 or more aliens as such non-  
24 immigrants; and

1           “(III) in the case of a violation of subparagraph  
2           (J), the employer shall be liable to the employees  
3           harmed by such violation for lost wages and bene-  
4           fits.”.

5   **SEC. 4308. PROHIBITION ON RETALIATION AGAINST L NON-**  
6                           **IMMIGRANTS.**

7           Section 214(c)(2) (8 U.S.C. 1184(c)(2)), as amended  
8           by sections 4302, 4303, 4303, 4306, and 4307, is further  
9           amended by adding at the end the following:

10          “(L)(i) It is a violation of this subparagraph for an  
11          employer who has filed a petition to import 1 or more  
12          aliens as nonimmigrants described in section  
13          101(a)(15)(L) to take, fail to take, or threaten to take  
14          or fail to take, a personnel action, or to intimidate, threat-  
15          en, restrain, coerce, blacklist, discharge, or discriminate  
16          in any other manner against an employee because the em-  
17          ployee—

18               “(I) has disclosed information that the em-  
19          ployee reasonably believes evidences a violation of  
20          this subsection, or any rule or regulation pertaining  
21          to this subsection; or

22               “(II) cooperates or seeks to cooperate with the  
23          requirements of this subsection, or any rule or regu-  
24          lation pertaining to this subsection.

1       “(ii) In this subparagraph, the term ‘employee’ in-  
2 cludes—

3               “(I) a current employee;

4               “(II) a former employee; and

5               “(III) an applicant for employment.”.

6   **SEC. 4309. REPORTS ON L NONIMMIGRANTS.**

7       Section 214(c)(8) (8 U.S.C. 1184(c)(8)) is amended  
8 by inserting “(L),” after “(H),”.

9   **SEC. 4310. APPLICATION.**

10       The amendments made by this subtitle shall apply to  
11 applications filed on or after the date of the enactment  
12 of this Act.

13   **SEC. 4311. REPORT ON L BLANKET PETITION PROCESS.**

14       Not later than 6 months after the date of the enact-  
15 ment of this Act, the Inspector General of the Department  
16 shall submit to the Committee on the Judiciary of the Sen-  
17 ate and the Committee on the Judiciary of the House of  
18 Representatives a report regarding the use of blanket peti-  
19 tions under section 214(c)(2)(A) of the Immigration and  
20 Nationality Act (8 U.S.C. 1184(c)(2)(A)). Such report  
21 shall assess the efficiency and reliability of the process for  
22 reviewing such blanket petitions, including whether the  
23 process includes adequate safeguards against fraud and  
24 abuse.

1     **Subtitle D—Other Nonimmigrant**  
2                     **Visas**

3     **SEC. 4401. NONIMMIGRANT VISAS FOR STUDENTS.**

4             (a) AUTHORIZATION OF DUAL INTENT FOR F NON-  
5 IMMIGRANTS SEEKING BACHELOR’S OR GRADUATE DE-  
6 GREES.—Section       101(a)(15)(F)       (8       U.S.C.  
7 1101(a)(15)(F)) is amended to read as follows:

8                     “(F)(i) an alien having a residence in a  
9             foreign country who is a bona fide student  
10            qualified to pursue a full course of study and  
11            who seeks to enter the United States tempo-  
12            rarily and solely for the purpose of pursuing  
13            such a course of study consistent with section  
14            214(m) at an accredited college, university, or  
15            language training program, or at an established  
16            seminary, conservatory, academic high school,  
17            elementary school, or other academic institution  
18            in the United States, particularly designated by  
19            the alien and approved by the Secretary of  
20            Homeland Security after consultation with the  
21            Secretary of Education, which institution or  
22            place of study shall have agreed to report to the  
23            Secretary of Homeland Security the termination  
24            of attendance of each nonimmigrant student,  
25            and if any such institution of learning or place



1 of study fails to make reports promptly the ap-  
2 proval shall be withdrawn, except that such an  
3 alien who is not seeking to pursue a degree that  
4 is a bachelor's degree or a graduate degree shall  
5 have a residence in a foreign country that the  
6 alien has no intention of abandoning;

7 “(ii) the alien spouse and minor children of  
8 any alien described in clause (i) if accom-  
9 panying or following to join such an alien; and

10 “(iii) an alien who is a national of Canada  
11 or Mexico, who maintains actual residence and  
12 place of abode in the country of nationality,  
13 who is described in clause (i) except that the  
14 alien's qualifications for and actual course of  
15 study may be full or part-time, and who com-  
16 mutes to the United States institution or place  
17 of study from Canada or Mexico.”.

18 (b) DUAL INTENT.—Section 214(h) (8 U.S.C.  
19 1184(h)) is amended to read as follows:

20 “(h) DUAL INTENT.—The fact that an alien is, or  
21 intends to be, the beneficiary of an application for a pref-  
22 erence status filed under section 204, seeks a change or  
23 adjustment of status after completing a legitimate period  
24 of nonimmigrant stay, or has otherwise sought permanent  
25 residence in the United States shall not constitute evi-

1 dence of intent to abandon a foreign residence that would  
2 preclude the alien from obtaining or maintaining—

3 “(1) a visa or admission as a nonimmigrant de-  
4 scribed in subparagraph (E), (F)(i), (F)(ii),  
5 (H)(i)(b), (H)(i)(c), (L), (O), (P), (V), or (W) of  
6 section 101(a)(15); or

7 “(2) the status of a nonimmigrant described in  
8 any such subparagraph.”.

9 (c) REQUIREMENT OF STUDENT VISA DATA TRANS-  
10 FER AND CERTIFICATION.—

11 (1) IN GENERAL.—The Secretary shall imple-  
12 ment real-time transmission of data from the Stu-  
13 dent and Exchange Visitor Information System to  
14 databases used by U.S. Customs and Border Protec-  
15 tion.

16 (2) CERTIFICATION.—

17 (A) IN GENERAL.—Not later than 120  
18 days after the date of the enactment of this  
19 Act, the Secretary shall certify to Congress that  
20 the transmission of data referred to in para-  
21 graph (1) has been implemented.

22 (B) TEMPORARY SUSPENSION OF VISA  
23 ISSUANCE.—If the Secretary has not made the  
24 certification referred to in subparagraph (A)  
25 during the 120-day period, the Secretary shall

1 suspend issuance of visas under subparagraphs  
2 (F) and (M) of section 101(a)(15) of the Immi-  
3 gration and Nationality Act (8 U.S.C.  
4 1101(a)(15)) until the certification is made.

5 **SEC. 4402. CLASSIFICATION FOR SPECIALTY OCCUPATION**  
6 **WORKERS FROM FREE TRADE COUNTRIES.**

7 (a) NONIMMIGRANT STATUS.—Section  
8 101(a)(15)(E)(8 U.S.C. 1101(a)(15)(E)) is amended—

9 (1) in the matter preceding clause (i), by insert-  
10 ing “, bilateral investment treaty, or free trade  
11 agreement” after “treaty of commerce and naviga-  
12 tion”;

13 (2) in clause (ii), by striking “or” at the end;  
14 and

15 (3) by adding at the end the following:

16 “(iv) solely to perform services in a  
17 specialty occupation in the United States if  
18 the alien is a national of a country, other  
19 than Chile, Singapore, or Australia, with  
20 which the United States has entered into a  
21 free trade agreement (regardless of wheth-  
22 er such an agreement is a treaty of com-  
23 merce and navigation) and with respect to  
24 whom the Secretary of Labor determines  
25 and certifies to the Secretary of Homeland

1 Security and the Secretary of State that  
2 the intending employer has filed with the  
3 Secretary of Labor an attestation under  
4 section 212(t);

5 “(v) solely to perform services in a  
6 specialty occupation in the United States if  
7 the alien is a national of the Republic of  
8 Korea and with respect to whom the Sec-  
9 retary of Labor determines and certifies to  
10 the Secretary of Homeland Security and  
11 the Secretary of State that the intending  
12 employer has filed with the Secretary of  
13 Labor an attestation under section 212(t);  
14 or

15 “(vi) solely to perform services as an  
16 employee and who has at least a high  
17 school education or its equivalent, or has,  
18 during the most recent 5-year period, at  
19 least 2 years of work experience in an oc-  
20 cupation which requires at least 2 years of  
21 training or experience if the alien is a na-  
22 tional of a country—

23 “(I) designated as an eligible  
24 sub-Saharan African country under  
25 section 104 of the African Growth

1                   and Opportunity Act (19 U.S.C.  
2                   3703); or  
3                   “(II) designated as a beneficiary  
4                   country for purposes of the Caribbean  
5                   Basin Economic Recovery Act (19  
6                   U.S.C. 2701 et seq.);”.

7           (b) NUMERICAL LIMITATION.—Section 214(g)(11) (8  
8 U.S.C. 1184(g)(11)) is amended—

9                   (1) in subparagraph (A), by striking “section  
10           101(a)(15)(E)(iii)” and inserting “clauses (iii) and  
11           (vi) of section 101(a)(15)(E)”;

12                   (2) by amending subparagraph (B) to read as  
13           follows:

14           “(B) The applicable numerical limitation referred to  
15           in subparagraph (A) for each fiscal year is—

16                   “(i) 10,500 for each of the nationalities identi-  
17           fied in clause (iii) of section 101(a)(15)(E); and

18                   “(ii) 10,500 for all aliens described in clause  
19           (vi) of such section.”.

20           (c) FREE TRADE AGREEMENTS.—Section 214(g) (8  
21 U.S.C. 1184(g)) is amended by adding at the end the fol-  
22           lowing:

23           “(12)(A) The free trade agreements referred to in  
24           section 101(a)(15)(E)(iv) are defined as any free trade  
25           agreement designated by the Secretary of Homeland Secu-

1 rity with the concurrence of the United States Trade Rep-  
2 resentative and the Secretary of State.

3 “(B) The Secretary of State may not approve a num-  
4 ber of initial applications submitted for aliens described  
5 in clause (iv) or (v) of section 101(a)(15)(E) that is more  
6 than 5,000 per fiscal year for each country with which  
7 the United States has entered into a Free Trade Agree-  
8 ment.

9 “(C) The applicable numerical limitation referred to  
10 in subparagraph (A) shall apply only to principal aliens  
11 and not to the spouses or children of such aliens.”.

12 (d) NONIMMIGRANT PROFESSIONALS.—Section  
13 212(t) (8 U.S.C. 1182(t)) is amended by striking “section  
14 101(a)(15)(E)(iii)” each place that term appears and in-  
15 serting “clause (iv) or (v) of section 101(a)(15)(E)”.

16 **SEC. 4403. E-VISA REFORM.**

17 (a) NONIMMIGRANT CATEGORY.—Section  
18 101(a)(15)(E)(iii) (8 U.S.C. 1101(a)(15)(E)(iii)) is  
19 amended by inserting “, or solely to perform services as  
20 an employee and who has at least a high school education  
21 or its equivalent, or has, within 5 years, at least 2 years  
22 of work experience in an occupation which requires at least  
23 2 years of training or experience if the alien is a national  
24 of the Republic of Ireland,” after “Australia”.

1 (b) TEMPORARY ADMISSION.—Section 212(d)(3)(A)  
2 (8 U.S.C. 1182(d)(3)(A)) is amended to read as follows:

3 “(A) Except as otherwise provided in this sub-  
4 section—

5 “(i) an alien who is applying for a non-  
6 immigrant visa and who the consular officer  
7 knows or believes to be ineligible for such visa  
8 under subsection (a) (other than subparagraphs  
9 (A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and  
10 (E)(ii) of paragraph (3) of such subsection)—

11 “(I) after approval by the Secretary of  
12 Homeland Security of a recommendation  
13 by the Secretary of State or by the con-  
14 sular officer that the alien be admitted  
15 temporarily despite the alien’s inadmis-  
16 sibility, may be granted such a visa and  
17 may be admitted into the United States  
18 temporarily as a nonimmigrant, in the dis-  
19 cretion of the Secretary of Homeland Secu-  
20 rity; or

21 “(II) absent such recommendation  
22 and approval, be granted a nonimmigrant  
23 visa pursuant to section 101(a)(15)(E) if  
24 such ineligibility is based solely on conduct  
25 in violation of paragraph (6), (7), or (9) of

1 section 212(a) that occurred before the  
2 date of the enactment of the Border Secu-  
3 rity, Economic Opportunity, and Immigra-  
4 tion Modernization Act; and

5 “(ii) an alien who is inadmissible under  
6 subsection (a) (other than subparagraphs  
7 (A)(i)(I), (A)(ii), (A)(iii), (C), (E)(i), and  
8 (E)(ii) of paragraph (3) of such subsection), is  
9 in possession of appropriate documents or was  
10 granted a waiver from such document require-  
11 ment, and is seeking admission, may be admit-  
12 ted into the United States temporarily as a  
13 nonimmigrant, in the discretion of the Sec-  
14 retary of Homeland Security, who shall pre-  
15 scribe conditions, including exaction of such  
16 bonds as may be necessary, to control and regu-  
17 late the admission and return of inadmissible  
18 aliens applying for temporary admission under  
19 this paragraph.”.

20 (c) NUMERICAL LIMITATION.—Section  
21 214(g)(11)(B) (8 U.S.C. 1184(g)(11)(B)) is amended by  
22 striking the period at the end and inserting “for each of  
23 the nationalities identified under section  
24 101(a)(15)(E)(iii).”.



1   **SEC. 4404. OTHER CHANGES TO NONIMMIGRANT VISAS.**

2           (a) PORTABILITY.—Paragraphs (1) and (2) of sec-  
3   tion 214(n) (8 U.S.C. 1184(n)) are amended to read as  
4   follows:

5           “(1) A nonimmigrant alien described in paragraph  
6   (2) who was previously issued a visa or otherwise provided  
7   nonimmigrant status under section 101(a)(15)(H)(i)(b) or  
8   101(a)(15)(O)(i) is authorized to accept new employment  
9   pursuant to such section upon the filing by the prospective  
10   employer of a new petition on behalf of such nonimmigrant  
11   as provided under subsection (a). Employment authoriza-  
12   tion shall continue for such alien until the new petition  
13   is adjudicated. If the new petition is denied, such author-  
14   ization shall cease.

15           “(2) A nonimmigrant alien described in this para-  
16   graph is a nonimmigrant alien—

17               “(A) who has been lawfully admitted into the  
18   United States;

19               “(B) on whose behalf an employer has filed a  
20   nonfrivolous petition for new employment before the  
21   date of expiration of the period of stay authorized by  
22   the Secretary of Homeland Security; and

23               “(C) who, subsequent to such lawful admission,  
24   has not been employed without authorization in the  
25   United States before the filing of such petition.”.

1 (b) WAIVER.—The undesignated material at the end  
2 of section 214(c)(3) (8 U.S.C. 1184(c)(3)) is amended to  
3 read as follows:

4 “The Secretary of Homeland Security shall provide by  
5 regulation for the waiver of the consultation requirement  
6 under subparagraph (A) in the case of aliens who have  
7 been admitted as nonimmigrants under section  
8 101(a)(15)(O)(i) because of extraordinary ability in the  
9 arts or extraordinary achievement in motion picture or tel-  
10 evision production and who seek readmission to perform  
11 similar services within 3 years after the date of a consulta-  
12 tion under such subparagraph provided that, in the case  
13 of aliens admitted because of extraordinary achievement  
14 in motion picture or television production, such waiver  
15 shall apply only if the prior consultations by the appro-  
16 priate union and management organization were favorable  
17 or raised no objection to the approval of the petition. Not  
18 later than 5 days after such a waiver is provided, the Sec-  
19 retary shall forward a copy of the petition and all sup-  
20 porting documentation to the national office of an appro-  
21 priate labor organization. In the case of an alien seeking  
22 entry for a motion picture or television production (i) any  
23 opinion under the previous sentence shall only be advisory;  
24 (ii) any such opinion that recommends denial must be in  
25 writing; (iii) in making the decision the Attorney General

1 shall consider the exigencies and scheduling of the produc-  
2 tion; (iv) the Attorney General shall append to the decision  
3 any such opinion; and (v) upon making the decision, the  
4 Attorney General shall immediately provide a copy of the  
5 decision to the consulting labor and management organi-  
6 zations.”.

7 **SEC. 4405. TREATMENT OF NONIMMIGRANTS DURING AD-**  
8 **JUDICATION OF APPLICATION.**

9 Section 214 (8 U.S.C. 1184), as amended by sections  
10 3609 and 4233, is further amended by adding at the end  
11 the following:

12 “(u) TREATMENT OF NONIMMIGRANTS DURING AD-  
13 JUDICATION OF APPLICATION.—A nonimmigrant alien  
14 granted employment authorization pursuant to sections  
15 101(a)(15)(A), 101(a)(15)(E), 101(a)(15)(G),  
16 101(a)(15)(H), 101(a)(15)(I), 101(a)(15)(J),  
17 101(a)(15)(L), 101(a)(15)(O), 101(a)(15)(P),  
18 101(a)(15)(Q), 101(a)(15)(R), 214(e), and such other sec-  
19 tions as the Secretary of Homeland Security may by regu-  
20 lations prescribe whose status has expired but who has,  
21 or whose sponsoring employer or authorized agent has,  
22 filed a timely application or petition for an extension of  
23 such employment authorization and nonimmigrant status  
24 as provided under subsection (a) is authorized to continue  
25 employment with the same employer until the application

1 or petition is adjudicated. Such authorization shall be sub-  
2 ject to the same conditions and limitations as the initial  
3 grant of employment authorization.”.

4 **SEC. 4406. NONIMMIGRANT ELEMENTARY AND SECONDARY**  
5 **SCHOOL STUDENTS.**

6 Section 214(m)(1)(B) (8 U.S.C. 1184(m)(1)(B)) is  
7 amended striking “unless—” and all that follows through  
8 “(ii)” and inserting “unless”.

9 **SEC. 4407. J-1 SUMMER WORK TRAVEL VISA EXCHANGE VIS-**  
10 **ITOR PROGRAM FEE.**

11 Section 281 (8 U.S.C. 1351), as amended by section  
12 4105, is further amended by adding at the end the fol-  
13 lowing:

14 “(e) J-1 SUMMER WORK TRAVEL PARTICIPANT  
15 FEE.—In addition to the fees authorized under subsection  
16 (a), the Secretary of State shall collect a \$100 fee from  
17 each nonimmigrant entering under the Summer Work  
18 Travel program conducted by the Secretary of State pur-  
19 suant to the Foreign Affairs Reform and Restructuring  
20 Act of 1998 (division G of Public Law 105–277; 112 Stat.  
21 2681–761). Fees collected under this subsection shall be  
22 deposited into the Comprehensive Immigration Reform  
23 Trust Fund established under section 6(a)(1) of the Bor-  
24 der Security, Economic Opportunity, and Immigration  
25 Modernization Act.”.

1   **SEC. 4408. J VISA ELIGIBILITY.**

2           (a) SPEAKERS OF CERTAIN FOREIGN LANGUAGES.—

3   Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is  
4   amended to read as follows:

5                   “(J) an alien having a residence in a for-  
6           eign country which he has no intention of aban-  
7           doning who—

8                   “(i) is a bona fide student, scholar,  
9           trainee, teacher, professor, research assist-  
10          ant, specialist, or leader in a field of spe-  
11          cialized knowledge or skill, or other person  
12          of similar description, who is coming tem-  
13          porarily to the United States as a partici-  
14          pant in a program designated by the Di-  
15          rector of the United States Information  
16          Agency, for the purpose of teaching, in-  
17          structing or lecturing, studying, observing,  
18          conducting research, consulting, dem-  
19          onstrating special skills, or receiving train-  
20          ing and who, if such alien is coming to the  
21          United States to participate in a program  
22          under which such alien will receive grad-  
23          uate medical education or training, also  
24          meets the requirements of section 212(j),  
25          and the alien spouse and minor children of

1 any such alien if accompanying such alien  
2 or following to join such alien; or

3 “(ii) is coming to the United States to  
4 perform work involving specialized knowl-  
5 edge or skill, including teaching on a full-  
6 time or part-time basis, that requires pro-  
7 ficiency of languages spoken as a native  
8 language in countries of which fewer than  
9 5,000 nationals were lawfully admitted for  
10 permanent residence in the United States  
11 in the previous year;”.

12 (b) REQUIREMENT FOR ANNUAL LIST OF COUN-  
13 TRIES.—The Secretary of State shall publish an annual  
14 list of the countries described in clause (ii) of section  
15 101(a)(15)(J) of the Immigration and Nationality Act (8  
16 U.S.C. 1101(a)(15)(J)), as added by subsection (a).

17 (c) SUMMER WORK TRAVEL PROGRAM EMPLOYMENT  
18 IN SEAFOOD PROCESSING.—Notwithstanding any other  
19 provision of law or regulation, including part 62 of title  
20 22, Code of Federal Regulations, or any proposed rule,  
21 the Secretary of State shall permit participants in the  
22 Summer Work Travel program described in section 62.32  
23 of such title 22 who are admitted under section  
24 101(a)(15)(J) of the Immigration and Nationality Act (8

1 U.S.C. 1101(a)(15)(J)), as amended by subsection (a), to  
2 be employed in seafood processing positions in Alaska.

3 **SEC. 4409. F-1 VISA FEE.**

4 Section 281 (8 U.S.C. 1351), as amended by sections  
5 4105 and 4407, is further amended by adding at the end  
6 the following:

7 “(f) F-1 VISA FEE.—

8 “(1) IN GENERAL.—In addition to the fees au-  
9 thorized under subsection (a), the Secretary of  
10 Homeland Security shall collect a \$100 fee from  
11 each nonimmigrant admitted under section  
12 101(a)(15)(F)(i). Fees collected under this sub-  
13 section shall be deposited into the Comprehensive  
14 Immigration Reform Trust Fund established under  
15 section 6(a)(1) of the Border Security, Economic  
16 Opportunity, and Immigration Modernization Act.

17 “(2) RULEMAKING.—The Secretary of Home-  
18 land Security, in conjunction with the Secretary of  
19 State, shall promulgate regulations to ensure that—

20 “(A) the fee authorized under paragraph  
21 (1) is paid on behalf of all J-1 nonimmigrants  
22 seeking entry into the United States;

23 “(B) a fee related to the hiring of a J-1  
24 nonimmigrant is not deducted from the wages

1 or other compensation paid to the J-1 non-  
2 immigrant; and

3 “(C) not more than 1 fee is collected per  
4 J-1 nonimmigrant.”.

5 **SEC. 4410. PILOT PROGRAM FOR REMOTE B NON-**  
6 **IMMIGRANT VISA INTERVIEWS.**

7 Section 222 (8 U.S.C. 1202) is amended by adding  
8 at the end the following:

9 “(i)(1) Except as provided in paragraph (3), the Sec-  
10 retary of State—

11 “(A) shall develop and conduct a pilot program  
12 for processing visas under section 101(a)(15)(B)  
13 using secure remote videoconferencing technology as  
14 a method for conducting any required in person  
15 interview of applicants; and

16 “(B) in consultation with the heads of other  
17 Federal agencies that use such secure communica-  
18 tions, shall help ensure the security of the  
19 videoconferencing transmission and encryption con-  
20 ducted under subparagraph (A).

21 “(2) Not later than 90 days after the termination of  
22 the pilot program authorized under paragraph (1), the  
23 Secretary of State shall submit to the appropriate commit-  
24 tees of Congress a report that contains—



1           “(A) a detailed description of the results of  
2           such program, including an assessment of the effi-  
3           cacy, efficiency, and security of the remote  
4           videoconferencing technology as a method for con-  
5           ducting visa interviews of applicants; and

6           “(B) recommendations for whether such pro-  
7           gram should be continued, broadened, or modified.

8           “(3) The pilot program authorized under paragraph  
9           (1) may not be conducted if the Secretary of State deter-  
10          mines that such program—

11           “(A) poses an undue security risk; and

12           “(B) cannot be conducted in a manner con-  
13          sistent with maintaining security controls.

14          “(4) If the Secretary of State makes a determination  
15          under paragraph (3), the Secretary shall submit a report  
16          to the appropriate committees of Congress that describes  
17          the reasons for such determination.

18          “(5) In this subsection:

19           “(A) The term ‘appropriate committees of Con-  
20          gress’ means—

21           “(i) the Committee on the Judiciary, the  
22           Committee on Foreign Relations, and the Com-  
23           mittee on Appropriations of the Senate; and

24           “(ii) the Committee on the Judiciary, the  
25           Committee on Foreign Affairs, and the Com-

1           mittee on Appropriations of the House of Rep-  
2           resentatives.

3           “(B) The term ‘in person interview’ includes  
4           interviews conducted using remote video tech-  
5           nology.”.

6   **SEC. 4411. PROVIDING CONSULAR OFFICERS WITH ACCESS**  
7                   **TO ALL TERRORIST DATABASES AND REQUIR-**  
8                   **ING HEIGHTENED SCRUTINY OF APPLICA-**  
9                   **TIONS FOR ADMISSION FROM PERSONS LIST-**  
10                  **ED ON TERRORIST DATABASES.**

11          Section 222 (8 U.S.C. 1202), as amended by section  
12 4410, is further amended by adding at the end the fol-  
13 lowing:

14          “(j) PROVIDING CONSULAR OFFICERS WITH ACCESS  
15 TO ALL TERRORIST DATABASES AND REQUIRING  
16 HEIGHTENED SCRUTINY OF APPLICATIONS FOR ADMIS-  
17 SION FROM PERSONS LISTED ON TERRORIST DATA-  
18 BASES.—

19               “(1) ACCESS TO THE SECRETARY OF STATE.—

20               “(A) IN GENERAL.—Except as provided in  
21               subparagraph (B), the Secretary of State shall  
22               have access to all terrorism records and data-  
23               bases maintained by any agency or department  
24               of the United States for the purposes of deter-

1 mining whether an applicant for admission  
2 poses a security threat to the United States.

3 “(B) EXCEPTION.—The head of such an  
4 agency or department may only withhold access  
5 to terrorism records and databases from the  
6 Secretary of State if such head is able to articu-  
7 late that withholding is necessary to prevent the  
8 unauthorized disclosure of information that  
9 clearly identifies, or would reasonably permit  
10 ready identification of, intelligence or sensitive  
11 law enforcement sources, methods, or activities.

12 “(2) BIOGRAPHIC AND BIOMETRIC SCREEN-  
13 ING.—

14 “(A) REQUIREMENT FOR BIOGRAPHIC AND  
15 BIOMETRIC SCREENING.—Notwithstanding any  
16 other provision of this Act, the Secretary of  
17 State shall require every alien applying for ad-  
18 mission to the United States to submit to bio-  
19 graphic and biometric screening to determine  
20 whether the alien’s name or biometric informa-  
21 tion is listed in any terrorist watch list or data-  
22 base maintained by any agency or department  
23 of the United States.

24 “(B) EXCLUSIONS.—No alien applying for  
25 a visa to the United States shall be granted

1           such visa by a consular officer if the alien's  
2           name or biometric information is listed in any  
3           terrorist watch list or database referred to in  
4           subparagraph (A) unless—

5                   “(i) screening of the alien's visa appli-  
6                   cation against interagency counterter-  
7                   rorism screening systems which compare  
8                   the applicant's information against data in  
9                   all counterterrorism watch lists and data-  
10                  bases reveals no potentially pertinent links  
11                  to terrorism;

12                   “(ii) the consular officer submits the  
13                   application for further review to the Sec-  
14                   retary of State and the heads of other rel-  
15                   evant agencies, including the Secretary of  
16                   Homeland Security and the Director of  
17                   National Intelligence; and

18                   “(iii) the Secretary of State, after  
19                   consultation with the Secretary of Home-  
20                   land Security, the Director of National In-  
21                   telligence, and the heads of other relevant  
22                   agencies, certifies that the alien is admis-  
23                   sible to the United States.”.

1 **SEC. 4412. VISA REVOCATION INFORMATION.**

2 Section 428 of the Homeland Security Act of 2002  
3 (6 U.S.C. 236) is amended by adding at the end the fol-  
4 lowing:

5 “(j) VISA REVOCATION INFORMATION.—If the Sec-  
6 retary of State or the Secretary of Homeland Security re-  
7 voke a visa—

8 “(1) the fact of the revocation shall be imme-  
9 diately provided to the relevant consular officers, law  
10 enforcement, and terrorist screening databases; and

11 “(2) a notice of such revocation shall be posted  
12 to all Department of Homeland Security port inspec-  
13 tors and to all consular officers.”.

14 **SEC. 4413. STATUS FOR CERTAIN BATTERED SPOUSES AND**  
15 **CHILDREN.**

16 (a) NONIMMIGRANT STATUS FOR CERTAIN BAT-  
17 TERED SPOUSES AND CHILDREN.—Section 101(a)(51) (8  
18 U.S.C. 1101(a)(51)), as amended by section  
19 2305(d)(6)(B)(i)(III), is further amended—

20 (1) in subparagraph (E), by striking “or” at  
21 the end;

22 (2) in subparagraph (F), by striking the period  
23 at the end and inserting “; or”; and

24 (3) by adding at the end the following:

25 “(G) section 106 as an abused derivative  
26 alien.”.

1 (b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—

2 (1) IN GENERAL.—Section 106 (8 U.S.C.  
3 1105a) is amended to read as follows:

4 **“SEC. 106. RELIEF FOR ABUSED DERIVATIVE ALIENS.**

5 “(a) ABUSED DERIVATIVE ALIEN DEFINED.—In this  
6 section, the term ‘abused derivative alien’ means an alien  
7 who—

8 “(1) is the spouse or child admitted under sec-  
9 tion 101(a)(15) or pursuant to a blue card status  
10 granted under section 2211 of the Border Security,  
11 Economic Opportunity, and Immigration Moderniza-  
12 tion Act;

13 “(2) is accompanying or following to join a  
14 principal alien admitted under such a section; and

15 “(3) has been subjected to battery or extreme  
16 cruelty by such principal alien.

17 “(b) RELIEF FOR ABUSED DERIVATIVE ALIENS.—  
18 The Secretary of Homeland Security—

19 “(1) shall grant or extend the status of admis-  
20 sion of an abused derivative alien under section  
21 101(a)(15) or section 2211 of the Border Security,  
22 Economic Opportunity, and Immigration Moderniza-  
23 tion Act under which the principal alien was admit-  
24 ted for the longer of—

1                   “(A) the same period for which the prin-  
2                   cipal was initially admitted; or

3                   “(B) a period of 3 years;

4                   “(2) may renew a grant or extension of status  
5                   made under paragraph (1);

6                   “(3) shall grant employment authorization to  
7                   an abused derivative alien; and

8                   “(4) may adjust the status of the abused deriv-  
9                   ative alien to that of an alien lawfully admitted for  
10                  permanent residence if—

11                  “(A) the alien is admissible under section  
12                  212(a) or the Secretary of Homeland Security  
13                  finds the alien’s continued presence in the  
14                  United States is justified on humanitarian  
15                  grounds, to ensure family unity, or is otherwise  
16                  in the public interest; and

17                  “(B) the status under which the principal  
18                  alien was admitted to the United States would  
19                  have potentially allowed for eventual adjustment  
20                  of status.

21                  “(c) EFFECT OF TERMINATION OF RELATIONSHIP.—  
22                  Termination of the relationship with principal alien shall  
23                  not affect the status of an abused derivative alien under  
24                  this section if battery or extreme cruelty by the principal

1 alien was 1 central reason for termination of the relation-  
2 ship.

3 “(d) PROCEDURES.—Requests for relief under this  
4 section shall be handled under the procedures that apply  
5 to aliens seeking relief under section 204(a)(1)(C).”.

6 (2) TABLE OF CONTENTS AMENDMENT.—The  
7 table of contents in the first section is amended by  
8 striking the item relating to section 106 and insert-  
9 ing the following:

“Sec. 106. Relief for abused derivative aliens.”.

10 **SEC. 4414. NONIMMIGRANT CREWMEN LANDING TEMPO-**  
11 **RARILY IN HAWAII.**

12 (a) IN GENERAL.—Section 101(a)(15)(D)(ii) (8  
13 U.S.C. 1101(a)(15)(D)(ii)) is amended—

14 (1) by striking “Guam” both places that term  
15 appears and inserting “Hawaii, Guam,”; and

16 (2) by striking the semicolon at the end and in-  
17 serting “or some other vessel or aircraft;”.

18 (b) TREATMENT OF DEPARTURES.—In the adminis-  
19 tration of section 101(a)(15)(D)(ii) of the Immigration  
20 and Nationality Act (8 U.S.C. 1101(a)(15)(D)(ii)), an  
21 alien crewman shall be considered to have departed from  
22 Hawaii, Guam, or the Commonwealth of the Northern  
23 Mariana Islands after leaving the territorial waters of Ha-  
24 waii, Guam, or the Commonwealth of the Northern Mar-  
25 iana Islands, respectively, without regard to whether the



1 alien arrives in a foreign state before returning to Hawaii,  
2 Guam, or the Commonwealth of the Northern Mariana Is-  
3 lands.

4 (c) CONFORMING AMENDMENT.—The Act entitled  
5 “An Act to amend the Immigration and Nationality Act  
6 to permit nonimmigrant alien crewmen on fishing vessels  
7 to stop temporarily at ports in Guam”, approved October  
8 21, 1986 (Public Law 99–505; 8 U.S.C. 1101 note) is  
9 amended by striking section 2.

10 **SEC. 4415. TREATMENT OF COMPACT OF FREE ASSOCIA-**  
11 **TION MIGRANTS.**

12 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.)  
13 is amended by inserting after section 214 the following:

14 **“SEC. 214A. TREATMENT OF COMPACT OF FREE ASSOCIA-**  
15 **TION MIGRANTS.**

16 “Notwithstanding any other provision of law, with re-  
17 spect to eligibility for benefits for the Federal program  
18 defined in 402(b)(3)(C) of the Personal Responsibility and  
19 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.  
20 1612(b)(3)(C)) (relating to the Medicaid program), sec-  
21 tions 401(a), 402(b)(1), and 403(a) of the Personal Re-  
22 sponsibility and Work Opportunity Reconciliation Act of  
23 1996 (8 U.S.C. 1611(a), 1612(b)(1), 1613(a)) shall not  
24 apply to any individual who lawfully resides in the United  
25 States in accordance with the Compacts of Free Associa-

1 tion between the Government of the United States and  
2 the Governments of the Federated States of Micronesia,  
3 the Republic of the Marshall Islands, and the Republic of  
4 Palau. Any individual to which the preceding sentence ap-  
5 plies shall be considered to be a qualified alien for pur-  
6 poses of title IV of the Personal Responsibility and Work  
7 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601  
8 et seq.), but only with respect to the designated Federal  
9 program defined in section 402(b)(3)(C) of such Act (re-  
10 lating to the Medicaid program) (8 U.S.C.  
11 1612(b)(3)(C)).”.

12 (b) CONFORMING AMENDMENTS.—Section 1108 of  
13 the Social Security Act (42 U.S.C. 1308) is amended—

14 (1) in subsection (f), in the matter preceding  
15 paragraph (1), by striking “subsection (g)” and in-  
16 serting “subsections (g) and (h)”; and

17 (2) by adding at the end the following:

18 “(h) The limitations of subsections (f) and (g) shall  
19 not apply with respect to medical assistance provided to  
20 an individual described in section 214A of the Immigra-  
21 tion and Nationality Act.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to benefits for items and services  
24 furnished on or after the date of the enactment of this  
25 Act.

1   **SEC. 4416. INTERNATIONAL PARTICIPATION IN THE PER-**  
2                   **FORMING ARTS.**

3           Section 214(c)(6)(D) (8 U.S.C. 1184(c)(6)(D)) is  
4 amended—

5           (1) in the first sentence, by inserting “(i)” be-  
6 fore “Any person”;

7           (2) in the second sentence—

8               (A) by striking “Once” and inserting “Ex-  
9 cept as provided in clause (ii), once”; and

10               (B) by striking “Attorney General shall”  
11 and inserting “Secretary of Homeland Security  
12 shall”;

13           (3) in the third sentence, by striking “The At-  
14 torney General” and inserting “The Secretary”; and

15           (4) by adding at the end the following:

16           “(ii) The Secretary of Homeland Security shall adju-  
17 dicate each petition for an alien with extraordinary ability  
18 in the arts (as described in section 101(a)(15)(O)(i)), an  
19 alien accompanying such an alien (as described in clauses  
20 (ii) and (iii) of section 101(a)(15)(O)), or an alien de-  
21 scribed in section 101(a)(15)(P) (other than an alien de-  
22 scribed in paragraph (4)(A) (relating to athletes)) not  
23 later than 14 days after—

24               “(I) the date on which the petitioner submits  
25 the petition with a written advisory opinion, letter of  
26 no objection, or request for a waiver; or

1           “(II) the date on which the 15-day period de-  
2           scribed in clause (i) has expired, if the petitioner has  
3           had an appropriate opportunity to supply rebuttal  
4           evidence.

5           “(iii) If a petition described in clause (ii) is not adju-  
6           dicated before the end of the 14-day period described in  
7           clause (ii) and the petitioner is an arts organization de-  
8           scribed in paragraph (3), (5), or (6) of section 501(c) of  
9           the Internal Revenue Code of 1986 and exempt from tax  
10          under section 501(a) of such Code for the taxable year  
11          preceding the calendar year in which the petition is sub-  
12          mitted, or an individual or entity petitioning primarily on  
13          behalf of such an organization, the Secretary of Homeland  
14          Security shall provide the petitioner with the premium  
15          processing services referred to in section 286(u), without  
16          a fee.”.

17   **SEC. 4417. LIMITATION ON ELIGIBILITY OF CERTAIN NON-**  
18                   **IMMIGRANTS FOR HEALTH-RELATED PRO-**  
19                   **GRAMS.**

20          (a) IN GENERAL.—Section 1903(v)(4)(A) of the So-  
21          cial Security Act (42 U.S.C. 1396b(v)(4)(A)) is amended  
22          by inserting “, but not including a nonimmigrant de-  
23          scribed in subparagraph (B) or (F) of section 101(a)(15)  
24          of the Immigration and Nationality Act” after “section  
25          431(c) of such Act”.

1 (b) CONFORMING CHANGES TO REGULATIONS.—

2 (1) SECRETARY OF HEALTH AND HUMAN SERV-  
3 ICES.—The Secretary of Health and Human Serv-  
4 ices shall conform all regulations promulgated by the  
5 Secretary of Health and Human Services that ref-  
6 erence the term “lawfully present” for purposes of  
7 health-related programs administered by the Sec-  
8 retary of Health and Human Services to reflect the  
9 amendment made by subsection (a) to the definition  
10 of “lawfully residing” in section 1903(v)(4)(A) of  
11 the Social Security Act (42 U.S.C. 1396b(v)(4)(A)).

12 (2) SECRETARY OF THE TREASURY.—The Sec-  
13 retary of the Treasury shall make the same changes  
14 to regulations promulgated by the Secretary of the  
15 Treasury that reference the term “lawfully present”  
16 for purposes of health-related programs adminis-  
17 tered by the Secretary of the Treasury as the Sec-  
18 retary of Health and Human Services makes under  
19 paragraph (1).

## 20 **Subtitle E—JOLT Act**

### 21 **SEC. 4501. SHORT TITLES.**

22 This subtitle may be cited as the “Jobs Originated  
23 through Launching Travel Act of 2013” or the “JOLT  
24 Act of 2013”.

1   **SEC. 4502. PREMIUM PROCESSING.**

2           Section 221 (8 U.S.C. 1201) is amended by inserting  
3   at the end the following:

4           “(j) PREMIUM PROCESSING.—

5               “(1) PILOT PROCESSING SERVICE.—Recogn-  
6           nizing that the best solution for expedited processing  
7           is low interview wait times for all applicants, the  
8           Secretary of State shall nevertheless establish, on a  
9           limited, pilot basis only, a fee-based premium proc-  
10          essing service to expedite interview appointments. In  
11          establishing a pilot processing service, the Secretary  
12          may—

13               “(A) determine the consular posts at which  
14           the pilot service will be available;

15               “(B) establish the duration of the pilot  
16           service;

17               “(C) define the terms and conditions of the  
18           pilot service, with the goal of expediting visa  
19           appointments and the interview process for  
20           those electing to pay said fee for the service;  
21           and

22               “(D) resources permitting, during the pilot  
23           service, consider the addition of consulates in  
24           locations advantageous to foreign policy objec-  
25           tives or in highly populated locales.

26           “(2) FEES.—

1           “(A) AUTHORITY TO COLLECT.—The Sec-  
2           retary of State is authorized to collect, and set  
3           the amount of, a fee imposed for the premium  
4           processing service. The Secretary of State shall  
5           set the fee based on all relevant considerations  
6           including, the cost of expedited service.

7           “(B) USE OF FEES.—Fees collected under  
8           the authority of subparagraph (A) shall be de-  
9           posited as an offsetting collection to any De-  
10          partment of State appropriation, to recover the  
11          costs of providing consular services. Such fees  
12          shall remain available for obligation until ex-  
13          pended.

14          “(C) RELATIONSHIP TO OTHER FEES.—  
15          Such fee is in addition to any existing fee cur-  
16          rently being collected by the Department of  
17          State.

18          “(D) NONREFUNDABLE.—Such fee will be  
19          nonrefundable to the applicant.

20          “(3) DESCRIPTION OF PREMIUM PROC-  
21          ESSING.—Premium processing pertains solely to the  
22          expedited scheduling of a visa interview. Utilizing  
23          the premium processing service for an expedited  
24          interview appointment does not establish the appli-  
25          cant’s eligibility for a visa. The Secretary of State

1000

1       shall, if possible, inform applicants utilizing the pre-  
2       mium processing of potential delays in visa issuance  
3       due to additional screening requirements, including  
4       necessary security-related checks and clearances.

5               “(4) REPORT TO CONGRESS.—

6               “(A) REQUIREMENT FOR REPORT.—Not  
7       later than 18 months after the date of the en-  
8       actment of the JOLT Act of 2013, the Sec-  
9       retary of State shall submit to the appropriate  
10      committees of Congress a report on the results  
11      of the pilot service carried out under this sec-  
12      tion.

13              “(B) APPROPRIATE COMMITTEES OF CON-  
14      GRESS DEFINED.—In this paragraph, the term  
15      ‘appropriate committees of Congress’ means—

16              “(i) the Committee on the Judiciary,  
17              the Committee on Foreign Relations, and  
18              the Committee on Appropriations of the  
19              Senate; and

20              “(ii) the Committee on the Judiciary,  
21              the Committee on Foreign Affairs, and the  
22              Committee on Appropriations of the House  
23              of Representatives.”.



1001

1   **SEC. 4503. ENCOURAGING CANADIAN TOURISM TO THE**  
2                   **UNITED STATES.**

3           Section 214 (8 U.S.C. 1184), as amended by sections  
4   3609, 4233, and 4405, is further amended by adding at  
5   the end the following:

6           “(v) CANADIAN RETIREES.—

7                   “(1) IN GENERAL.—The Secretary of Homeland  
8           Security may admit as a visitor for pleasure as de-  
9           scribed in section 101(a)(15)(B) any alien for a pe-  
10          riod not to exceed 240 days, if the alien dem-  
11          onstrates, to the satisfaction of the Secretary, that  
12          the alien—

13                   “(A) is a citizen of Canada;

14                   “(B) is at least 55 years of age;

15                   “(C) maintains a residence in Canada;

16                   “(D) owns a residence in the United States  
17          or has signed a rental agreement for accom-  
18          modations in the United States for the duration  
19          of the alien’s stay in the United States;

20                   “(E) is not inadmissible under section 212;

21                   “(F) is not described in any ground of de-  
22          portability under section 237;

23                   “(G) will not engage in employment or  
24          labor for hire in the United States; and

25                   “(H) will not seek any form of assistance  
26          or benefit described in section 403(a) of the

## 1002

1           Personal Responsibility and Work Opportunity  
2           Reconciliation Act of 1996 (8 U.S.C. 1613(a)).

3           “(2) SPOUSE.—The spouse of an alien de-  
4           scribed in paragraph (1) may be admitted under the  
5           same terms as the principal alien if the spouse satis-  
6           fies the requirements of paragraph (1), other than  
7           subparagraphs (B) and (D).

8           “(3) IMMIGRANT INTENT.—In determining eli-  
9           gibility for admission under this subsection, mainte-  
10          nance of a residence in the United States shall not  
11          be considered evidence of intent by the alien to  
12          abandon the alien’s residence in Canada.

13          “(4) PERIOD OF ADMISSION.—During any sin-  
14          gle 365-day period, an alien may be admitted as de-  
15          scribed in section 101(a)(15)(B) pursuant to this  
16          subsection for a period not to exceed 240 days, be-  
17          ginning on the date of admission. Unless an exten-  
18          sion is approved by the Secretary, periods of time  
19          spent outside the United States during such 240-day  
20          period shall not toll the expiration of such 240-day  
21          period.”.

22   **SEC. 4504. RETIREE VISA.**

23          (a) NONIMMIGRANT STATUS.—Section 101(a)(15),  
24          as amended, is further amended by inserting after sub-  
25          paragraph (X) the following:

1003

1 “(Y) subject to section 214(w), an alien  
2 who, after the date of the enactment of the  
3 JOLT Act of 2013—

4 “(i)(I) uses at least \$500,000 in cash  
5 to purchase 1 or more residences in the  
6 United States, which each sold for more  
7 than 100 percent of the most recent ap-  
8 praised value of such residence, as deter-  
9 mined by the property assessor in the city  
10 or county in which the residence is located;

11 “(II) maintains ownership of residen-  
12 tial property in the United States worth at  
13 least \$500,000 during the entire period the  
14 alien remains in the United States as a  
15 nonimmigrant described in this subpara-  
16 graph; and

17 “(III) resides for more than 180 days  
18 per year in a residence in the United  
19 States that is worth at least \$250,000; and

20 “(ii) the alien spouse and children of  
21 the alien described in clause (i) if accom-  
22 panying or following to join the alien.”.

23 (b) VISA APPLICATION PROCEDURES.—Section 214  
24 (8 U.S.C. 1184), as amended by sections 3609, 4233,

1 4405, and 4503, is further amended by adding at the end  
2 the following:

3 “(w) VISAS OF NONIMMIGRANTS DESCRIBED IN SEC-  
4 TION 101(a)(15)(Y).—

5 “(1) The Secretary of Homeland Security shall  
6 authorize the issuance of a nonimmigrant visa to  
7 any alien described in section 101(a)(15)(Y) who  
8 submits a petition to the Secretary that—

9 “(A) demonstrates, to the satisfaction of  
10 the Secretary, that the alien—

11 “(i) has purchased a residence in the  
12 United States that meets the criteria set  
13 forth in section 101(a)(15)(Y)(i);

14 “(ii) is at least 55 years of age;

15 “(iii) possesses health insurance cov-  
16 erage;

17 “(iv) is not inadmissible under section  
18 212; and

19 “(v) will comply with the terms set  
20 forth in paragraph (2); and

21 “(B) includes payment of a fee in an  
22 amount equal to \$1,000.

23 “(2) An alien who is issued a visa under this  
24 subsection—

1005

1           “(A) shall reside in the United States at a  
2           residence that meets the criteria set forth in  
3           section 101(a)(15)(Y)(i) for more than 180  
4           days per year;

5           “(B) is not authorized to engage in em-  
6           ployment in the United States, except for em-  
7           ployment that is directly related to the manage-  
8           ment of the residential property described in  
9           section 101(Y)(i)(II);

10           “(C) is not eligible for any form of assist-  
11           ance or benefit described in section 403(a) of  
12           the Personal Responsibility and Work Oppor-  
13           tunity Reconciliation Act of 1996 (8 U.S.C.  
14           1613(a)); and

15           “(D) may renew such visa every 3 years  
16           under the same terms and conditions.”.

17       (c) USE OF FEE.—Fees collected under section  
18       214(w)(1)(B) of the Immigration and Nationality Act, as  
19       added by subsection (b), shall be deposited in the Com-  
20       prehensive Immigration Reform Trust Fund established  
21       under section 6(a)(1).

1006

1 **SEC. 4505. INCENTIVES FOR FOREIGN VISITORS VISITING**  
2 **THE UNITED STATES DURING LOW PEAK SEA-**  
3 **SONS.**

4 The Secretary of State shall make publically avail-  
5 able, on a monthly basis, historical data, for the previous  
6 2 years, regarding the availability of visa appointments for  
7 each visa processing post, to allow applicants to identify  
8 periods of low demand, when wait times tend to be lower.

9 **SEC. 4506. VISA WAIVER PROGRAM ENHANCED SECURITY**  
10 **AND REFORM.**

11 (a) DEFINITIONS.—Section 217(c)(1) (8 U.S.C.  
12 1187(c)(1)) is amended to read as follows:

13 “(1) AUTHORITY TO DESIGNATE; DEFINI-  
14 TIONS.—

15 “(A) AUTHORITY TO DESIGNATE.—The  
16 Secretary of Homeland Security, in consultation  
17 with the Secretary of State, may designate any  
18 country as a program country if that country  
19 meets the requirements under paragraph (2).

20 “(B) DEFINITIONS.—In this subsection:

21 “(i) APPROPRIATE CONGRESSIONAL  
22 COMMITTEES.—The term ‘appropriate con-  
23 gressional committees’ means—

24 “(I) the Committee on Foreign  
25 Relations, the Committee on Home-  
26 land Security and Governmental Af-

1007

1                   fairs, and the Committee on the Judi-  
2                   ciary of the Senate; and

3                   “(II) the Committee on Foreign  
4                   Affairs, the Committee on Homeland  
5                   Security, and the Committee on the  
6                   Judiciary of the House of Representa-  
7                   tives.

8                   “(ii) OVERSTAY RATE.—

9                   “(I) INITIAL DESIGNATION.—The  
10                  term ‘overstay rate’ means, with re-  
11                  spect to a country being considered  
12                  for designation in the program, the  
13                  ratio of—

14                  “(aa) the number of nation-  
15                  als of that country who were ad-  
16                  mitted to the United States on  
17                  the basis of a nonimmigrant visa  
18                  under section 101(a)(15)(B)  
19                  whose periods of authorized stay  
20                  ended during a fiscal year but  
21                  who remained unlawfully in the  
22                  United States beyond such peri-  
23                  ods; to

24                  “(bb) the number of nation-  
25                  als of that country who were ad-

1008

1                   mitted to the United States on  
2                   the basis of a nonimmigrant visa  
3                   under section 101(a)(15)(B)  
4                   whose periods of authorized stay  
5                   ended during that fiscal year.

6                   “(II) CONTINUING DESIGNA-  
7                   TION.—The term ‘overstay rate’  
8                   means, for each fiscal year after ini-  
9                   tial designation under this section  
10                  with respect to a country, the ratio  
11                  of—

12                   “(aa) the number of nation-  
13                   als of that country who were ad-  
14                   mitted to the United States  
15                   under this section or on the basis  
16                   of a nonimmigrant visa under  
17                   section 101(a)(15)(B) whose pe-  
18                   riods of authorized stay ended  
19                   during a fiscal year but who re-  
20                   mained unlawfully in the United  
21                   States beyond such periods; to

22                   “(bb) the number of nation-  
23                   als of that country who were ad-  
24                   mitted to the United States  
25                   under this section or on the basis



1009

1 of a nonimmigrant visa under  
2 section 101(a)(15)(B) whose pe-  
3 riods of authorized stay ended  
4 during that fiscal year.

5 “(III) COMPUTATION OF OVER-  
6 STAY RATE.—In determining the over-  
7 stay rate for a country, the Secretary  
8 of Homeland Security may utilize in-  
9 formation from any available data-  
10 bases to ensure the accuracy of such  
11 rate.

12 “(iii) PROGRAM COUNTRY.—The term  
13 ‘program country’ means a country des-  
14 ignated as a program country under sub-  
15 paragraph (A).”.

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
17 Section 217 (8 U.S.C. 1187) is amended—

18 (1) by striking “Attorney General” each place  
19 the term appears (except in subsection (c)(11)(B))  
20 and inserting “Secretary of Homeland Security”;  
21 and

22 (2) in subsection (c)—

23 (A) in paragraph (2)(C)(iii), by striking  
24 “Committee on the Judiciary and the Com-  
25 mittee on International Relations of the House

1 of Representatives and the Committee on the  
2 Judiciary and the Committee on Foreign Rela-  
3 tions of the Senate” and inserting “appropriate  
4 congressional committees”;

5 (B) in paragraph (5)(A)(i)(III), by striking  
6 “Committee on the Judiciary, the Committee on  
7 Foreign Affairs, and the Committee on Home-  
8 land Security, of the House of Representatives  
9 and the Committee on the Judiciary, the Com-  
10 mittee on Foreign Relations, and the Com-  
11 mittee on Homeland Security and Govern-  
12 mental Affairs of the Senate” and inserting  
13 “appropriate congressional committees”; and

14 (C) in paragraph (7), by striking subpara-  
15 graph (E).

16 (c) DESIGNATION OF PROGRAM COUNTRIES BASED  
17 ON OVERSTAY RATES.—

18 (1) IN GENERAL.—Section 217(c)(2)(A) (8  
19 U.S.C. 1187(c)(2)(A)) is amended to read as fol-  
20 lows:

21 “(A) GENERAL NUMERICAL LIMITA-  
22 TIONS.—

23 “(i) LOW NONIMMIGRANT VISA RE-  
24 FUSAL RATE.—The percentage of nationals  
25 of that country refused nonimmigrant visas

1011

1 under section 101(a)(15)(B) during the  
2 previous full fiscal year was not more than  
3 3 percent of the total number of nationals  
4 of that country who were granted or re-  
5 fused nonimmigrant visas under such sec-  
6 tion during such year.

7 “(ii) LOW NONIMMIGRANT OVERSTAY  
8 RATE.—The overstay rate for that country  
9 was not more than 3 percent during the  
10 previous fiscal year.”.

11 (2) QUALIFICATION CRITERIA.—Section  
12 217(c)(3) (8 U.S.C. 1187(c)(3)) is amended to read  
13 as follows:

14 “(3) QUALIFICATION CRITERIA.—After designa-  
15 tion as a program country under section 217(c)(2),  
16 a country may not continue to be designated as a  
17 program country unless the Secretary of Homeland  
18 Security, in consultation with the Secretary of State,  
19 determines, pursuant to the requirements under  
20 paragraph (5), that the designation will be contin-  
21 ued.”.

22 (3) INITIAL PERIOD.—Section 217(c) (8 U.S.C.  
23 1187(c)) is amended by striking paragraph (4).

1           (4) CONTINUING DESIGNATION.—Section  
2       217(c)(5)(A)(i)(II) (8 U.S.C. 1187(c)(5)(A)(i)(II)) is  
3       amended to read as follows:

4                               “(II) shall determine,  
5                               based upon the evaluation in  
6                               subclause (I), whether any  
7                               such designation under sub-  
8                               section (d) or (f), or proba-  
9                               tion under subsection (f),  
10                              ought to be continued or ter-  
11                              minated;”.

12           (5) COMPUTATION OF VISA REFUSAL RATES;  
13       JUDICIAL REVIEW.—Section 217(c)(6) (8 U.S.C.  
14       1187(c)(6)) is amended to read as follows:

15           “(6) COMPUTATION OF VISA REFUSAL RATES  
16       AND JUDICIAL REVIEW.—

17                              “(A) COMPUTATION OF VISA REFUSAL  
18                              RATES.—For purposes of determining the eligi-  
19                              bility of a country to be designated as a pro-  
20                              gram country, the calculation of visa refusal  
21                              rates shall not include any visa refusals which  
22                              incorporate any procedures based on, or are  
23                              otherwise based on, race, sex, or disability, un-  
24                              less otherwise specifically authorized by law or  
25                              regulation.

## 1013

1           “(B) JUDICIAL REVIEW.—No court shall  
2           have jurisdiction under this section to review  
3           any visa refusal, the Secretary of State’s com-  
4           putation of a visa refusal rate, the Secretary of  
5           Homeland Security’s computation of an over-  
6           stay rate, or the designation or nondesignation  
7           of a country as a program country.”.

8           (6) VISA WAIVER INFORMATION.—Section  
9           217(c)(7) (8 U.S.C. 1187(c)(7)), as amended by  
10          subsection (b)(2)(C), is further amended—

11           (A) by striking subparagraphs (B) through  
12           (D); and

13           (B) by striking “WAIVER INFORMATION.—  
14           ” and all that follows through “In refusing”  
15           and inserting “WAIVER INFORMATION.—In re-  
16           fusing”.

17           (7) WAIVER AUTHORITY.—Section 217(c)(8) (8  
18           U.S.C. 1187(c)(8)) is amended to read as follows:

19           “(8) WAIVER AUTHORITY.—The Secretary of  
20           Homeland Security, in consultation with the Sec-  
21           retary of State, may waive the application of para-  
22           graph (2)(A)(i) for a country if—

23           “(A) the country meets all other require-  
24           ments of paragraph (2);

1           “(B) the Secretary of Homeland Security  
2 determines that the totality of the country’s se-  
3 curity risk mitigation measures provide assur-  
4 ance that the country’s participation in the pro-  
5 gram would not compromise the law enforce-  
6 ment, security interests, or enforcement of the  
7 immigration laws of the United States;

8           “(C) there has been a general downward  
9 trend in the percentage of nationals of the  
10 country refused nonimmigrant visas under sec-  
11 tion 101(a)(15)(B);

12           “(D) the country consistently cooperated  
13 with the Government of the United States on  
14 counterterrorism initiatives, information shar-  
15 ing, preventing terrorist travel, and extradition  
16 to the United States of individuals (including  
17 the country’s own nationals) who commit  
18 crimes that violate United States law before the  
19 date of its designation as a program country,  
20 and the Secretary of Homeland Security and  
21 the Secretary of State assess that such coopera-  
22 tion is likely to continue; and

23           “(E) the percentage of nationals of the  
24 country refused a nonimmigrant visa under sec-  
25 tion 101(a)(15)(B) during the previous full fis-

1           cal year was not more than 10 percent of the  
2           total number of nationals of that country who  
3           were granted or refused such nonimmigrant  
4           visas.”.

5           (d) TERMINATION OF DESIGNATION; PROBATION.—  
6 Section 217(f) (8 U.S.C. 1187(f)) is amended to read as  
7 follows:

8           “(f) TERMINATION OF DESIGNATION; PROBATION.—  
9           “(1) DEFINITIONS.—In this subsection:

10                   “(A) PROBATIONARY PERIOD.—The term  
11           ‘probationary period’ means the fiscal year in  
12           which a probationary country is placed in pro-  
13           bationary status under this subsection.

14                   “(B) PROGRAM COUNTRY.—The term ‘pro-  
15           gram country’ has the meaning given that term  
16           in subsection (c)(1)(B).

17           “(2) DETERMINATION, NOTICE, AND INITIAL  
18           PROBATIONARY PERIOD.—

19                   “(A) DETERMINATION OF PROBATIONARY  
20           STATUS AND NOTICE OF NONCOMPLIANCE.—As  
21           part of each program country’s periodic evalua-  
22           tion required by subsection (c)(5)(A), the Sec-  
23           retary of Homeland Security shall determine  
24           whether a program country is in compliance

1 with the program requirements under subpara-  
2 graphs (A)(ii) through (F) of subsection (c)(2).

3 “(B) INITIAL PROBATIONARY PERIOD.—If  
4 the Secretary of Homeland Security determines  
5 that a program country is not in compliance  
6 with the program requirements under subpara-  
7 graphs (A)(ii) through (F) of subsection (c)(2),  
8 the Secretary of Homeland Security shall place  
9 the program country in probationary status for  
10 the fiscal year following the fiscal year in which  
11 the periodic evaluation is completed.

12 “(3) ACTIONS AT THE END OF THE INITIAL  
13 PROBATIONARY PERIOD.—At the end of the initial  
14 probationary period of a country under paragraph  
15 (2)(B), the Secretary of Homeland Security shall  
16 take 1 of the following actions:

17 “(A) COMPLIANCE DURING INITIAL PROBA-  
18 TIONARY PERIOD.—If the Secretary determines  
19 that all instances of noncompliance with the  
20 program requirements under subparagraphs  
21 (A)(ii) through (F) of subsection (c)(2) that  
22 were identified in the latest periodic evaluation  
23 have been remedied by the end of the initial  
24 probationary period, the Secretary shall end the  
25 country’s probationary period.



## 1017

1                   “(B) NONCOMPLIANCE DURING INITIAL  
2                   PROBATIONARY PERIOD.—If the Secretary de-  
3                   termines that any instance of noncompliance  
4                   with the program requirements under subpara-  
5                   graphs (A)(ii) through (F) of subsection (c)(2)  
6                   that were identified in the latest periodic eval-  
7                   uation has not been remedied by the end of the  
8                   initial probationary period—

9                   “(i) the Secretary may terminate the  
10                  country’s participation in the program; or

11                  “(ii) on an annual basis, the Secretary  
12                  may continue the country’s probationary  
13                  status if the Secretary, in consultation  
14                  with the Secretary of State, determines  
15                  that the country’s continued participation  
16                  in the program is in the national interest  
17                  of the United States.

18                  “(4) ACTIONS AT THE END OF ADDITIONAL  
19                  PROBATIONARY PERIODS.—At the end of all proba-  
20                  tionary periods granted to a country pursuant to  
21                  paragraph (3)(B)(ii), the Secretary shall take 1 of  
22                  the following actions:

23                  “(A) COMPLIANCE DURING ADDITIONAL  
24                  PERIOD.—The Secretary shall end the country’s  
25                  probationary status if the Secretary determines

1 during the latest periodic evaluation required by  
2 subsection (c)(5)(A) that the country is in com-  
3 pliance with the program requirements under  
4 subparagraphs (A)(ii) through (F) of subsection  
5 (c)(2).

6 “(B) NONCOMPLIANCE DURING ADDI-  
7 TIONAL PERIODS.—The Secretary shall termi-  
8 nate the country’s participation in the program  
9 if the Secretary determines during the latest  
10 periodic evaluation required by subsection  
11 (c)(5)(A) that the program country continues to  
12 be in noncompliance with the program require-  
13 ments under subparagraphs (A)(ii) through (F)  
14 of subsection (c)(2).

15 “(5) EFFECTIVE DATE.—The termination of a  
16 country’s participation in the program under para-  
17 graph (3)(B) or (4)(B) shall take effect on the first  
18 day of the first fiscal year following the fiscal year  
19 in which the Secretary determines that such partici-  
20 pation shall be terminated. Until such date, nation-  
21 als of the country shall remain eligible for a waiver  
22 under subsection (a).

23 “(6) TREATMENT OF NATIONALS AFTER TERMI-  
24 NATION.—For purposes of this subsection and sub-  
25 section (d)—

1           “(A) nationals of a country whose designa-  
2           tion is terminated under paragraph (3) or (4)  
3           shall remain eligible for a waiver under sub-  
4           section (a) until the effective date of such ter-  
5           mination; and

6           “(B) a waiver under this section that is  
7           provided to such a national for a period de-  
8           scribed in subsection (a)(1) shall not, by such  
9           termination, be deemed to have been rescinded  
10          or otherwise rendered invalid, if the waiver is  
11          granted prior to such termination.

12          “(7) CONSULTATIVE ROLE OF THE SECRETARY  
13          OF STATE.—In this subsection, references to sub-  
14          paragraphs (A)(ii) through (F) of subsection (c)(2)  
15          and subsection (c)(5)(A) carry with them the con-  
16          sultative role of the Secretary of State as provided  
17          in those provisions.”.

18          (e) REVIEW OF OVERSTAY TRACKING METHOD-  
19          OLOGY.—Not later than 180 days after the date of the  
20          enactment of this Act, the Comptroller General of the  
21          United States shall conduct a review of the methods used  
22          by the Secretary—

23                 (1) to track aliens entering and exiting the  
24          United States; and

1           (2) to detect any such alien who stays longer  
2           than such alien's period of authorized admission.

3           (f) EVALUATION OF ELECTRONIC SYSTEM FOR  
4 TRAVEL AUTHORIZATION.—Not later than 90 days after  
5 the date of the enactment of this Act, the Secretary shall  
6 submit to Congress—

7           (1) an evaluation of the security risks of aliens  
8           who enter the United States without an approved  
9           Electronic System for Travel Authorization  
10          verification; and

11          (2) a description of any improvements needed  
12          to minimize the number of aliens who enter the  
13          United States without the verification described in  
14          paragraph (1).

15          (g) SENSE OF CONGRESS ON PRIORITY FOR REVIEW  
16 OF PROGRAM COUNTRIES.—It is the sense of Congress  
17 that the Secretary, in the process of conducting evalua-  
18 tions of countries participating in the visa waiver program  
19 under section 217 of the Immigration and Nationality Act  
20 (8 U.S.C. 1187), should prioritize the reviews of countries  
21 in which circumstances indicate that such a review is nec-  
22 essary or desirable.

23          (h) ELIGIBILITY OF HONG KONG SPECIAL ADMINIS-  
24 TRATIVE REGION FOR DESIGNATION FOR PARTICIPATION  
25 IN VISA WAIVER PROGRAM FOR CERTAIN VISITORS TO

1 THE UNITED STATES.—Section 217(c) (8 U.S.C.  
2 1187(c)) is amended by adding at the end the following  
3 new paragraph:

4 “(12) ELIGIBILITY OF CERTAIN REGION FOR  
5 DESIGNATION AS PROGRAM COUNTRY.—The Hong  
6 Kong Special Administrative Region of the People’s  
7 Republic of China—

8 “(A) shall be eligible for designation as a  
9 program country for purposes of this sub-  
10 section; and

11 “(B) may be designated as a program  
12 country for purposes of this subsection if such  
13 region meets requirements applicable for such  
14 designation in this subsection.”.

15 **SEC. 4507. EXPEDITING ENTRY FOR PRIORITY VISITORS.**

16 Section 7208(k)(4) of the Intelligence Reform and  
17 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(4))  
18 is amended to read as follows:

19 “(4) EXPEDITING ENTRY FOR PRIORITY VISI-  
20 TORS.—

21 “(A) IN GENERAL.—The Secretary of  
22 Homeland Security may expand the enrollment  
23 across registered traveler programs to include  
24 eligible individuals employed by international  
25 organizations, selected by the Secretary, which

1 maintain strong working relationships with the  
2 United States.

3 “(B) REQUIREMENTS.—An individual may  
4 not be enrolled in a registered traveler program  
5 unless—

6 “(i) the individual is sponsored by an  
7 international organization selected by the  
8 Secretary under subparagraph (A); and

9 “(ii) the government that issued the  
10 passport that the individual is using has  
11 entered into a Trusted Traveler Arrange-  
12 ment with the Department of Homeland  
13 Security to participate in a registered trav-  
14 eler program.

15 “(C) SECURITY REQUIREMENTS.—An indi-  
16 vidual may not be enrolled in a registered trav-  
17 eler program unless the individual has success-  
18 fully completed all applicable security require-  
19 ments established by the Secretary, including  
20 cooperation from the applicable foreign govern-  
21 ment, to ensure that the individual does not  
22 pose a risk to the United States.

23 “(D) DISCRETION.—Except as provided in  
24 subparagraph (E), the Secretary shall retain  
25 unreviewable discretion to offer or revoke en-

1 rollment in a registered traveler program to any  
2 individual.

3 “(E) INELIGIBLE TRAVELERS.—An indi-  
4 vidual who is a citizen of a state sponsor of ter-  
5 rorism (as defined in section 301(13) of the  
6 Comprehensive Iran Sanctions, Accountability,  
7 and Divestment Act of 2010 (22 U.S.C.  
8 8541(13)) may not be enrolled in a registered  
9 traveler program.”.

10 **SEC. 4508. VISA PROCESSING.**

11 (a) IN GENERAL.—Notwithstanding any other provi-  
12 sion of law and not later than 90 days after the date of  
13 the enactment of this Act, the Secretary of State shall—

14 (1) require United States diplomatic and con-  
15 sular missions—

16 (A) to conduct visa interviews for non-  
17 immigrant visa applications determined to re-  
18 quire a consular interview in an expeditious  
19 manner, consistent with national security re-  
20 quirements, and in recognition of resource allo-  
21 cation considerations, such as the need to en-  
22 sure provision of consular services to citizens of  
23 the United States;

24 (B) to set a goal of interviewing 80 percent  
25 of all nonimmigrant visa applicants, worldwide,

1 within 3 weeks of receipt of application, subject  
2 to the conditions outlined in subparagraph (A);  
3 and

4 (C) to explore expanding visa processing  
5 capacity in China and Brazil, with the goal of  
6 maintaining interview wait times under 15 work  
7 days on a consistent, year-round basis, recog-  
8 nizing that demand can spike suddenly and un-  
9 predictably and that the first priority of United  
10 States missions abroad is the protection of citi-  
11 zens of the United States; and

12 (2) submit to the appropriate committees of  
13 Congress a detailed strategic plan that describes the  
14 resources needed to carry out paragraph (1)(A).

15 (b) APPROPRIATE COMMITTEES OF CONGRESS.—In  
16 this section, the term “appropriate committees of Con-  
17 gress” means—

18 (1) the Committee on the Judiciary, the Com-  
19 mittee on Foreign Relations, and the Committee on  
20 Appropriations of the Senate; and

21 (2) the Committee on the Judiciary, the Com-  
22 mittee on Foreign Affairs, and the Committee on  
23 Appropriations of the House of Representatives.

24 (c) SEMI-ANNUAL REPORT.—Not later than 30 days  
25 after the end of the first 6 months after the implementa-



tion of subsection (a), and not later than 30 days after the end of each subsequent quarter, the Secretary of State shall submit to the appropriate committees of Congress a report that provides—

(1) data substantiating the efforts of the Secretary of State to meet the requirements and goals described in subsection (a);

(2) any factors that have negatively impacted the efforts of the Secretary to meet such requirements and goals; and

(3) any measures that the Secretary plans to implement to meet such requirements and goals.

(d) SAVINGS PROVISION.—

(1) IN GENERAL.—Nothing in subsection (a) may be construed to affect a consular officer's authority—

(A) to deny a visa application under section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g)); or

(B) to initiate any necessary or appropriate security-related check or clearance.

(2) SECURITY CHECKS.—The completion of a security-related check or clearance shall not be subject to the time limits set out in subsection (a).

1   **SEC. 4509. B VISA FEE.**

2           Section 281 (8 U.S.C. 1351), as amended by sections  
3   4105, 4407, and 4408, is further amended by adding at  
4   the end the following:

5           “(g) B VISA FEE.—In addition to the fees authorized  
6   under subsection (a), the Secretary of Homeland Security  
7   shall collect a \$5 fee from each nonimmigrant admitted  
8   under section 101(a)(15)(B). Fees collected under this  
9   subsection shall be deposited into the Comprehensive Im-  
10   migration Reform Trust Fund established under section  
11   6(a)(1) of the Illegal Immigration Reform and Immigrant  
12   Responsibility Act of 1996.”.

13           **Subtitle F—Reforms to the H-2B**  
14                           **Visa Program**

15   **SEC. 4601. EXTENSION OF RETURNING WORKER EXEMP-**  
16                           **TION TO H-2B NUMERICAL LIMITATION.**

17           (a) IN GENERAL.—

18                   (1) IN GENERAL.—Subparagraph (A) of para-  
19           graph (10) of section 214(g) (8 U.S.C. 1184(g)), as  
20           redesignated by section 4101(a)(3), is amended by  
21           striking “fiscal year 2004, 2005, or 2006 shall not  
22           again be counted toward such limitation during fis-  
23           cal year 2007.” and inserting “fiscal year 2013 shall  
24           not again be counted toward such limitation during  
25           fiscal years 2014 through 2018.”.

1           (2) EFFECTIVE PERIOD.—The amendment  
2       made by paragraph (1) shall be effective during the  
3       period beginning on the effective date described in  
4       subsection (c) and ending on September 30, 2018.

5       (b) TECHNICAL AND CLARIFYING AMENDMENTS.—

6           (1) NONIMMIGRANT STATUS.—Section  
7       101(a)(15)(P) (8 U.S.C. 1101(a)(15)(P)) is amend-  
8       ed—

9           (A) in clause (iii), by striking “or” at the  
10       end;

11          (B) in clause (iv), by striking “clause (i),  
12       (ii), or (iii),” and inserting “clause (i), (ii), (iii),  
13       or (iv)”;

14          (C) by redesignating clause (iv) as clause  
15       (v); and

16          (D) by inserting after clause (iii) the fol-  
17       lowing:

18               “(iv) is a ski instructor, who has been  
19       certified as a level I, II, or III ski and  
20       snowboard instructor by the Professional  
21       Ski Instructors of America or the Amer-  
22       ican Association of Snowboard Instructors,  
23       or received an equivalent certification in  
24       the alien’s country of origin, and is seeking

1 to enter the United States temporarily to  
2 perform instructing services; or”.

3 (2) AUTHORIZED PERIOD OF STAY; NUMERICAL  
4 LIMITATION.—Section 214(a)(2)(B) (8 U.S.C.  
5 1184(a)(2)(B)) is amended in the second sentence—

6 (A) by inserting “or ski instructors” after  
7 “athletes”; and

8 (B) by inserting “or ski instructor” after  
9 “athlete”.

10 (3) CONSTRUCTION.—Nothing in the amend-  
11 ments made by this subsection may be construed as  
12 preventing an alien who is a ski instructor from ob-  
13 taining nonimmigrant status under section  
14 101(a)(15)(H)(ii)(b) of the Immigration and Nation-  
15 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) if such  
16 alien is otherwise qualified for such status.

17 (c) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall take effect as if enacted on January  
19 1, 2013.

20 **SEC. 4602. OTHER REQUIREMENTS FOR H-2B EMPLOYERS.**

21 Section 214 (8 U.S.C. 1184), as amended by sections  
22 3609, 4233, 4405, 4503, and 4504, is further amended  
23 by adding at the end the following:

24 “(x) REQUIREMENTS FOR H-2B EMPLOYERS.—

1           “(1) H-2B NONIMMIGRANT DEFINED.—In this  
2           subsection the term ‘H-2B nonimmigrant’ means an  
3           alien admitted to the United States pursuant to sec-  
4           tion 101(a)(15)(H)(ii)(B).

5           “(2) NON-DISPLACEMENT OF UNITED STATES  
6           WORKERS.—An employer who seeks to employ an  
7           H-2B nonimmigrant admitted in an occupational  
8           classification shall certify and attest that the em-  
9           ployer did not displace and will not displace a  
10          United States worker employed by the employer in  
11          the same metropolitan statistical area where such  
12          nonimmigrant will be hired within the period begin-  
13          ning 90 days before the start date and ending on the  
14          end date for which the employer is seeking the serv-  
15          ices of such nonimmigrant as specified on an appli-  
16          cation for labor certification under this Act.

17          “(3) TRANSPORTATION COSTS.—The employer  
18          shall pay the transportation costs, including reason-  
19          able subsistence costs during the period of travel, for  
20          an H-2B nonimmigrant hired by the employer—

21                 “(A) from the place of recruitment to the  
22                 place of such nonimmigrant’s employment; and

23                 “(B) from the place of employment to such  
24                 nonimmigrant’s place of permanent residence or  
25                 a subsequent worksite.

## 1030

1           “(4) PAYMENT OF FEES.—A fee related to the  
2       hiring of an H-2B nonimmigrant required to be  
3       paid by an employer under this Act shall be paid by  
4       the employer and may not be deducted from the  
5       wages or other compensation paid to an H-2B non-  
6       immigrant.

7           “(5) H-2B NONIMMIGRANT LABOR CERTIFI-  
8       CATION APPLICATION FEE.—

9           “(A) IN GENERAL.—To recover costs of  
10       carrying out labor certification activities under  
11       the H-2B program, the Secretary of Labor  
12       shall impose a \$500 fee on an employer that  
13       submits an application for an employment cer-  
14       tification for aliens granted H-2B non-  
15       immigrant status to the Secretary of Labor  
16       under this subparagraph on or after the date  
17       that is 30 days after the date of the enactment  
18       of the Illegal Immigration Reform and Immi-  
19       grant Responsibility Act of 1996.”.

20           “(B) USE OF FEES.—The fees collected  
21       under subparagraph (A) shall be deposited in  
22       the Comprehensive Immigration Reform Trust  
23       Fund established under section 6 of the Illegal  
24       Immigration Reform and Immigrant Responsi-  
25       bility Act of 1996.”.

1   **SEC. 4603. EXECUTIVES AND MANAGERS.**

2           Section 214(a)(1) (8 U.S.C. 1184(a)(1)) is amended  
3 by adding at the end the following: “Aliens admitted under  
4 section 101(a)(15) should include—

5           “(A) executives and managers employed by a  
6 firm or corporation or other legal entity or an affil-  
7 iate or subsidiary thereof who are principally sta-  
8 tioned abroad and who seek to enter the United  
9 States for periods of 90 days or less to oversee and  
10 observe the United States operations of their related  
11 companies, and establish strategic objectives when  
12 needed; or

13           “(B) employees of multinational corporations  
14 who enter the United States to observe the oper-  
15 ations of a related United States company and par-  
16 ticipate in select leadership and development train-  
17 ing activities, whether or not the activity is part of  
18 a formal or classroom training program for a period  
19 not to exceed 180 days.

20 Nonimmigrant aliens admitted pursuant to section  
21 101(a)(15) and engaged in the activities described in  
22 the subparagraph (A) or (B) may not receive a sal-  
23 ary from a United States source, except for inci-  
24 dental expenses for meals, travel, lodging and other  
25 basic services.”.

1   **SEC. 4604. HONORARIA.**

2           Section 212(q) (8 U.S.C. 1182(q)) is amended to  
3 read as follows:

4           “(q)(1) Any alien admitted under section  
5 101(a)(15)(B) may accept an honorarium payment and  
6 associated incidental expenses, for a usual academic activ-  
7 ity or activities (lasting not longer than 9 days at any sin-  
8 gle institution), as defined by the Attorney General in con-  
9 sultation with the Secretary of Education, or for a per-  
10 formance, appearance and participation in United States  
11 based programming, including scripted or unscripted pro-  
12 gramming (with services not rendered for more than 60  
13 days in a 6 month period) if the alien has received a letter  
14 of invitation from the institution, organization, or media  
15 outlet, such payment is offered by an institution, organiza-  
16 tion, or media outlet described in paragraph (2) and is  
17 made for services conducted for the benefit of that institu-  
18 tion, entity or media outlet and if the alien has not accept-  
19 ed such payment or expenses from more than 5 institu-  
20 tions, organizations, or media outlets in the previous 6-  
21 month period. Any alien who is admitted under section  
22 101(a)(15)(B) or any other valid visa may perform serv-  
23 ices under this section without reentering the United  
24 States and without a letter of invitation, if the alien does  
25 not receive any remuneration including an honorarium



1 payment or incidental expenses, but may receive prize  
2 money.

3 “(2) An institution, organization, or media outlet de-  
4 scribed in this paragraph—

5 “(A) an institution of higher education (as de-  
6 fined in section 101(a) of the Higher Education Act  
7 of 1965 (20 U.S.C. 1001(a))) or a related or affili-  
8 ated nonprofit entity;

9 “(B) a nonprofit research organization or a  
10 governmental research organization; and

11 “(C) a broadcast network, cable entity, produc-  
12 tion company, new media, internet and mobile based  
13 companies, who create or distribute programming  
14 content.”.

15 **SEC. 4605. NONIMMIGRANTS PARTICIPATING IN RELIEF OP-**  
16 **ERATIONS.**

17 Section 214 (8 U.S.C. 1184), as amended by sections  
18 3609, 4233, 4405, 4503, 4504, and 4602, is further  
19 amended by adding at the end following:

20 “(y) NONIMMIGRANTS PARTICIPATING IN RELIEF  
21 OPERATIONS.—

22 “(1) IN GENERAL.—An alien coming individ-  
23 ually, or aliens coming as a group, to participate in  
24 relief operations, including critical infrastructure re-  
25 pairs or improvements, needed in response to a Fed-

1       eral or State declared emergency or disaster, may be  
2       admitted to the United States pursuant to section  
3       101(a)(15)(B) for a period of not more than 90 days  
4       if each such alien has been employed in a foreign  
5       country by 1 employer for not less than 1 year prior  
6       to the date the alien is so admitted.

7               “(2) PROHIBITION ON DIRECT PAYMENTS FROM  
8       A UNITED STATES SOURCE.—During a period of ad-  
9       mission pursuant to paragraph (1), an alien may not  
10      receive direct payments from a United States source,  
11      except for incidental expenses for meals, travel, lodg-  
12      ing, and other basic services.”.

13   **SEC. 4606. NONIMMIGRANTS PERFORMING MAINTENANCE**  
14               **ON COMMON CARRIERS.**

15      Section 214 (8 U.S.C. 1184), as amended by sections  
16   3609, 4233, 4405, 4503, 4504, 4602, and 4603, is further  
17   amended by adding at the end following:

18      “(z) NONIMMIGRANTS PERFORMING MAINTENANCE  
19   ON COMMON CARRIER.—

20               “(1) IN GENERAL.—An alien coming individ-  
21      ually, or aliens coming as a group, who possess spe-  
22      cialized knowledge to perform maintenance or re-  
23      pairs for common carriers, including to airlines,  
24      cruise lines, and railways, if such maintenance or re-  
25      pairs are occurring to equipment or machinery man-

1       ufactured outside of the United States and are need-  
2       ed for purposes relating to life, health, and safety,  
3       may be admitted to the United States pursuant to  
4       section 101(a)(15)(B) for a period of not more than  
5       90 days if each such alien has been employed in a  
6       foreign country by 1 employer for not less than 1  
7       year prior to the date the alien is so admitted.

8               “(2) PROHIBITION ON INCOME FROM A UNITED  
9       STATES SOURCE.—During a period of admission  
10      pursuant to paragraph (1), an alien may not receive  
11      income from a United States source, except for inci-  
12      dental expenses for meals, travel, lodging, and other  
13      basic services.

14             “(3) FEE.—

15               “(A) IN GENERAL.—An alien admitted  
16      pursuant to paragraph (1) shall pay a fee of  
17      \$500 in addition to any fee assessed to cover  
18      the costs to process an application under this  
19      subsection.

20               “(B) USE OF FEE.—The fees collected  
21      under subparagraph (A) shall be deposited in  
22      the Comprehensive Immigration Reform Trust  
23      Fund established under section 6(a)(1) of the  
24      Illegal Immigration Reform and Immigrant Re-  
25      sponsibility Act of 1996.”.

1   **SEC. 4607. AMERICAN JOBS IN AMERICAN FORESTS.**

2           (a) **SHORT TITLE.**—This section may be cited as the  
3   “American Jobs in American Forests Act of 2013”.

4           (b) **DEFINITIONS.**—In this section:

5               (1) **FORESTRY.**—The term “forestry” means—

6                   (A) propagating, protecting, and managing  
7                   forest tracts;

8                   (B) felling trees and cutting them into  
9                   logs;

10                  (C) using hand tools or operating heavy  
11                  powered equipment to perform activities such as  
12                  preparing sites for planting, tending crop trees,  
13                  reducing competing vegetation, moving logs, pil-  
14                  ing brush, and yarding and trucking logs from  
15                  the forest; and

16                  (D) planting seedlings and trees.

17               (2) **H-2B NONIMMIGRANT.**—The term “H-2B  
18   nonimmigrant” means a nonimmigrant described in  
19   section 101(a)(15)(H)(ii)(b) of the Immigration and  
20   Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

21               (3) **PROSPECTIVE H-2B EMPLOYER.**—The term  
22   “prospective H-2B employer” means a United  
23   States business that is considering employing 1 or  
24   more nonimmigrants described in section  
25   101(a)(15)(H)(ii)(b) of the Immigration and Nation-  
26   ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

1           (4) STATE WORKFORCE AGENCY.—The term  
2       “State workforce agency” means the workforce  
3       agency of the State in which the prospective H–2B  
4       employer intends to employ H–2B nonimmigrants.

5       (c) DEPARTMENT OF LABOR.—

6           (1) RECRUITMENT.—As a component of the  
7       labor certification process required before H–2B  
8       nonimmigrants are offered forestry employment in  
9       the United States, the Secretary of Labor shall re-  
10      quire all prospective H–2B employers, before they  
11      submit a petition to hire H–2B nonimmigrants to  
12      work in forestry, to conduct a robust effort to re-  
13      cruit United States workers, including, to the extent  
14      the State workforce agency considers appropriate—

15           (A) advertising at employment or job-  
16      placement events, such as job fairs;

17           (B) placing the job opportunity with the  
18      State workforce agency and working with such  
19      agency to identify qualified and available  
20      United States workers;

21           (C) advertising in appropriate media, in-  
22      cluding local radio stations and commonly used,  
23      reputable Internet job-search sites; and

24           (D) such other recruitment efforts as the  
25      State workforce agency considers appropriate

1           for the sector or positions for which H–2B non-  
2           immigrants would be considered.

3           (2) SEPARATE CERTIFICATIONS AND PETI-  
4           TIONS.—A prospective H–2B employer shall submit  
5           a separate application for temporary employment  
6           certification and petition for each State in which the  
7           employer plans to employ H–2B nonimmigrants in  
8           forestry for a period of 7 days or longer. The Sec-  
9           retary of Labor shall review each application for  
10          temporary employment certification and decide sepa-  
11          rately whether certification is warranted.

12          (d) STATE WORKFORCE AGENCIES.—The Secretary  
13          of Labor may not grant a temporary labor certification  
14          to a prospective H–2B employer seeking to employ H–2B  
15          nonimmigrants in forestry until after the Director of the  
16          State workforce agency, in each State in which such work-  
17          ers are sought—

18               (1) submits a report to the Secretary of Labor  
19               certifying that—

20                   (A) the employer has complied with all re-  
21                   cruitment requirements set forth in subsection  
22                   (c)(1) and there is legitimate demand for the  
23                   employment of H–2B nonimmigrants in each of  
24                   those States; or

1 (B) the employer has amended the applica-  
2 tion by removing or making appropriate modi-  
3 fications with respect to the States in which the  
4 criteria set forth in subparagraph (A) have not  
5 been met; and

6 (2) makes a formal determination that nation-  
7 als of the United States are not qualified or avail-  
8 able to fill the employment opportunities offered by  
9 the prospective H-2B employer.

## 10 **Subtitle G—W Nonimmigrant Visas**

### 11 **SEC. 4701. BUREAU OF IMMIGRATION AND LABOR MARKET** 12 **RESEARCH.**

13 (a) DEFINITIONS.—In this section:

14 (1) BUREAU.—Except as otherwise specifically  
15 provided, the term “Bureau” means the Bureau of  
16 Immigration and Labor Market Research established  
17 under subsection (b).

18 (2) COMMISSIONER.—The term “Commis-  
19 sioner” means the Commissioner of the Bureau.

20 (3) CONSTRUCTION OCCUPATION.—The term  
21 “construction occupation” means an occupation clas-  
22 sified by the Bureau of Labor Statistics as being  
23 within the construction industry for the purposes of  
24 publishing the Bureau’s workforce statistics.

1           (4) METROPOLITAN STATISTICAL AREA.—The  
2       term “metropolitan statistical area” means a geo-  
3       graphic area designated as a metropolitan statistical  
4       area by the Director of the Office of Management  
5       and Budget.

6           (5) SHORTAGE OCCUPATION.—The term “short-  
7       age occupation” means an occupation that the Com-  
8       missioner determines is experiencing a shortage of  
9       labor—

10           (A) throughout the United States; or

11           (B) in a specific metropolitan statistical  
12       area.

13           (6) W VISA PROGRAM.—The term “W Visa Pro-  
14       gram” means the program for the admission of non-  
15       immigrant aliens described in subparagraph (W)(i)  
16       of section 101(a)(15) of the Immigration and Na-  
17       tionality Act (8 U.S.C. 1101(a)(15)), as added by  
18       section 4702.

19           (7) ZONE 1 OCCUPATION.—The term “zone 1  
20       occupation” means an occupation that requires little  
21       or no preparation and is classified as a zone 1 occu-  
22       pation on—

23           (A) the Occupational Information Network  
24       Database (O\*NET) on the date of the enact-  
25       ment of this Act; or



1 (B) such Database or a similar successor  
2 database, as designated by the Secretary of  
3 Labor, after the date of the enactment of this  
4 Act.

5 (8) ZONE 2 OCCUPATION.—The term “zone 2  
6 occupation” means an occupation that requires some  
7 preparation and is classified as a zone 2 occupation  
8 on—

9 (A) the Occupational Information Network  
10 Database (O\*NET) on the date of the enact-  
11 ment of this Act; or

12 (B) such Database or a similar successor  
13 database, as designated by the Secretary of  
14 Labor, after the date of the enactment of this  
15 Act.

16 (9) ZONE 3 OCCUPATION.—The term “zone 3  
17 occupation” means an occupation that requires me-  
18 dium preparation and is classified as a zone 3 occu-  
19 pation on—

20 (A) the Occupational Information Network  
21 Database (O\*NET) on the date of the enact-  
22 ment of this Act; or

23 (B) such Database or a similar successor  
24 database, as designated by the Secretary of

1 Labor, after the date of the enactment of this  
2 Act.

3 (b) ESTABLISHMENT.—There is established a Bureau  
4 of Immigration and Labor Market Research as an inde-  
5 pendent statistical agency within U.S. Citizenship and Im-  
6 migration Services.

7 (c) COMMISSIONER.—The head of the Bureau of Im-  
8 migration and Labor Market Research is the Commis-  
9 sioner, who shall be appointed by the President, by and  
10 with the advice and consent of the Senate.

11 (d) DUTIES.—The duties of the Commissioner are  
12 limited to the following:

13 (1) To devise a methodology subject to publica-  
14 tion in the Federal Register and an opportunity for  
15 public comment regarding the calculation for the  
16 index referred to in section 220(g)(2)(C) of the Im-  
17 migration and Nationality Act, as added by section  
18 4703.

19 (2) To determine and to publish in the Federal  
20 Register the annual change to the numerical limita-  
21 tion for nonimmigrant aliens described in subpara-  
22 graph (W)(i) of section 101(a)(15) of the Immigra-  
23 tion and Nationality Act (8 U.S.C. 1101(a)(15)), as  
24 added by section 4702.

1           (3) With respect to the W Visa Program, to  
2       supplement the recruitment methods employers may  
3       use to attract United States workers and current  
4       nonimmigrant aliens described in paragraph (2).

5           (4) With respect to the W Visa Program, to de-  
6       vise a methodology subject to publication in the Fed-  
7       eral Register and an opportunity for public comment  
8       to designate shortage occupations in zone 1 occupa-  
9       tions, zone 2 occupations, and zone 3 occupations.  
10      Such methodology must designated Alaskan seafood  
11      processing in zones 1, 2, and 3 as shortage occupa-  
12      tions.

13          (5) With respect to the W Visa Program, to  
14      designate shortage occupations in any zone 1 occu-  
15      pation, zone 2 occupation, or zone 3 occupation and  
16      publish such occupations in the Federal Register.  
17      Alaskan seafood processing in zones 1, 2, and 3  
18      must be designated as shortage occupations.

19          (6) With respect to the W Visa Program, to  
20      conduct a survey once every 3 months of the unem-  
21      ployment rate of zone 1 occupations, zone 2 occupa-  
22      tions, or zone 3 occupations that are construction  
23      occupations in each metropolitan statistical area.

24          (7) To study and report to Congress on employ-  
25      ment-based immigrant and nonimmigrant visa pro-

1       grams in the United States and to make annual rec-  
2       ommendations to improve such programs.

3           (8) To carry out any functions required to per-  
4       form the duties described in paragraphs (1) through  
5       (7).

6       (e) DETERMINATION OF CHANGES TO NUMERICAL  
7       LIMITATIONS.—The methodology required under sub-  
8       section (d)(1) shall be published in the Federal Register  
9       not later than 18 months after the date of the enactment  
10      of this Act.

11      (f) DESIGNATION OF SHORTAGE OCCUPATIONS.—

12           (1) METHODS TO DETERMINE.—The Commis-  
13      sioner shall—

14           (A) establish the methodology to designate  
15           shortage occupations under subsection (d)(4);  
16           and

17           (B) publish such methodology in the Fed-  
18           eral Register not later than 18 months after the  
19           date of the enactment of this Act.

20      (2) PETITION BY EMPLOYER.—The method-  
21      ology established under paragraph (1) shall permit  
22      an employer to petition the Commissioner for a de-  
23      termination that a particular occupation in a par-  
24      ticular metropolitan statistical area is a shortage oc-  
25      cupation.

1           (3) REQUIREMENT FOR NOTICE AND COM-  
2           MENT.—The methodology established under para-  
3           graph (1) shall be effective only after publication in  
4           the Federal Register and an opportunity for public  
5           comment.

6           (g) EMPLOYEE EXPERTISE.—The employees of the  
7           Bureau shall have the expertise necessary to identify labor  
8           shortages in the United States and make recommenda-  
9           tions to the Commissioner on the impact of immigrant and  
10          nonimmigrant aliens on labor markets in the United  
11          States, including expertise in economics, labor markets,  
12          demographics and methods of recruitment of United  
13          States workers.

14          (h) INTERAGENCY COOPERATION.—At the request of  
15          the Commissioner, the Secretary of Commerce, the Direc-  
16          tor of the Bureau of the Census, the Secretary of Labor,  
17          and the Commissioner of the Bureau of Labor Statistics  
18          shall—

- 19               (1) provide data to the Commissioner;  
20               (2) conduct appropriate surveys; and  
21               (3) assist the Commissioner in preparing the  
22          recommendations referred to subsection (d)(5).

23          (i) BUDGET.—

24               (1) REPORT.—Not later than 1 year after the  
25          date of the enactment of this Act, the Director of

1 U.S. Citizenship and Immigration Services shall sub-  
2 mit to Congress a report of the estimated budget  
3 that the Bureau will need to carry out the duties de-  
4 scribed in subsection (d).

5 (2) AUDIT.—The Comptroller General of the  
6 United States shall submit to Congress a report that  
7 is an audit of the budget prepared by the Director  
8 under paragraph (1).

9 (j) FUNDING.—

10 (1) APPROPRIATION OF FUNDS.—There is here-  
11 by appropriated, out of any money in the Treasury  
12 not otherwise appropriated, \$20,000,000 to establish  
13 the Bureau.

14 (2) USE OF W NONIMMIGRANT FEES.—The  
15 amounts collected for fees under section  
16 220(e)(6)(B) of the Immigration and Nationality  
17 Act, as added by section 4703, shall be used to es-  
18 tablish and fund the Bureau.

19 (3) OTHER FEES.—The Secretary may establish  
20 other fees for the sole purpose of funding the W  
21 Visa Program, including the Bureau, that are re-  
22 lated to the hiring of alien workers.

1 **SEC. 4702. NONIMMIGRANT CLASSIFICATION FOR W NON-**  
2 **IMMIGRANTS.**

3 Section 101(a)(15)(W), as added by section 2211, is  
4 amended by inserting before clause (iii) the following:

5 “(i) to perform services or labor for a  
6 registered nonagricultural employer in a  
7 registered position (as those terms are de-  
8 fined in section 220(a)) in accordance with  
9 the requirements under section 220;

10 “(ii) to accompany or follow to join  
11 such an alien described in clause (i) as the  
12 spouse or child of such alien;”.

13 **SEC. 4703. ADMISSION OF W NONIMMIGRANT WORKERS.**

14 (a) IN GENERAL.—Chapter 2 of title II (8 U.S.C.  
15 1181 et seq.) is amended by adding at the end the fol-  
16 lowing:

17 **“SEC. 220. ADMISSION OF W NONIMMIGRANT WORKERS.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) BUREAU.—The term ‘Bureau’ means the  
20 Bureau of Immigration and Labor Market Research  
21 established by section 4701 of the Illegal Immigra-  
22 tion Reform and Immigrant Responsibility Act of  
23 1996.

24 “(2) CERTIFIED ALIEN.—The term ‘certified  
25 alien’ means an alien that the Secretary of State has  
26 certified is eligible to be a W nonimmigrant if the

1 alien is hired by a registered employer for a reg-  
2 istered position.

3 “(3) COMMISSIONER.—The term ‘Commis-  
4 sioner’ means the Commissioner of the Bureau.

5 “(4) CONSTRUCTION OCCUPATION.—The term  
6 ‘construction occupation’ means an occupation de-  
7 fined by the Bureau of Labor Statistics as being  
8 within the construction industry for the purposes of  
9 publishing the Bureau’s workforce statistics.

10 “(5) DEPARTMENT.—Except as otherwise pro-  
11 vided, the term ‘Department’ means the Department  
12 of Homeland Security.

13 “(6) ELIGIBLE OCCUPATION.—The term ‘eligi-  
14 ble occupation’ means an eligible occupation de-  
15 scribed in subsection (e)(3).

16 “(7) EMPLOYER.—

17 “(A) IN GENERAL.—The term ‘employer’  
18 means any person or entity hiring an individual  
19 for employment in the United States.

20 “(B) TREATMENT OF SINGLE EM-  
21 PLOYER.—For purposes of determining the  
22 number of employees or United States workers  
23 employed by an employer, a single entity shall  
24 be treated as 1 employer.



1           “(8) EXCLUDED GEOGRAPHIC LOCATION.—The  
2           term ‘excluded geographic location’ means an ex-  
3           cluded geographic location described in subsection  
4           (f).

5           “(9) INITIAL W NONIMMIGRANT.—The term  
6           ‘initial W nonimmigrant’ means a certified alien  
7           issued a W nonimmigrant visa by the Secretary of  
8           State pursuant to section 101(a)(15)(W)(i) in order  
9           to seek initial admission to the United States to  
10          commence employment for a registered employer in  
11          a registered position subject to the numerical limit  
12          at section 220(g).

13          “(10) METROPOLITAN STATISTICAL AREA.—  
14          The term ‘metropolitan statistical area’ means a ge-  
15          ographic area designated as a metropolitan statis-  
16          tical area by the Director of the Office of Manage-  
17          ment and Budget.

18          “(11) REGISTERED EMPLOYER.—The term  
19          ‘registered employer’ means a nonagricultural em-  
20          ployer that the Secretary has designated as a reg-  
21          istered employer under subsection (d).

22          “(12) SECRETARY.—Except as otherwise spe-  
23          cifically provided, the term ‘Secretary’ means the  
24          Secretary of Homeland Security.

1           “(13) SINGLE ENTITY.—The term ‘single enti-  
2       ty’ means any group treated as a single employer  
3       under subsection (b), (c), (m), or (o) of section 414  
4       of the Internal Revenue Code of 1986.

5           “(14) SHORTAGE OCCUPATION.—The term  
6       ‘shortage occupation’ means a shortage occupation  
7       designated by the Commissioner pursuant to section  
8       4701(d)(4) of the Illegal Immigration Reform and  
9       Immigrant Responsibility Act of 1996.

10          “(15) SMALL BUSINESS.—The term ‘small busi-  
11       ness’ means an employer that employs 25 or fewer  
12       full-time equivalent employees.

13          “(16) UNITED STATES WORKER.—The term  
14       ‘United States worker’ means an individual who is—

15               “(A) employed or seeking employment in  
16               the United States; and

17               “(B)(i) a national of the United States;

18               “(ii) an alien lawfully admitted for perma-  
19               nent residence;

20               “(iii) an alien in Registered Provisional  
21               Immigrant Status; or

22               “(iv) any other alien authorized to work in  
23               the United States with no limitation as to the  
24               alien’s employer.

## 1051

1           “(17) W NONIMMIGRANT.—The term ‘W non-  
2       immigrant’ means an alien admitted as a non-  
3       immigrant pursuant to section 101(a)(15)(W)(i).

4           “(18) W NONIMMIGRANT VISA.—The term ‘W  
5       nonimmigrant visa’ means a visa issued to a cer-  
6       tified alien by the Secretary of State pursuant to  
7       section 101(a)(15)(W)(i).

8           “(19) W VISA PROGRAM.—The term ‘W Visa  
9       Program’ means the program for the admission of  
10      nonimmigrant aliens described in section  
11      101(a)(15)(W)(i).

12          “(20) ZONE 1 OCCUPATION.—The term ‘zone 1  
13      occupation’ means an occupation that requires little  
14      or no preparation and is classified as a zone 1 occu-  
15      pation on—

16           “(A) the Occupational Information Net-  
17      work Database (O\*NET) on the date of the en-  
18      actment of the Illegal Immigration Reform and  
19      Immigrant Responsibility Act of 1996; or

20           “(B) such Database or a similar successor  
21      database, as designated by the Secretary of  
22      Labor, after the date of the enactment of the  
23      Illegal Immigration Reform and Immigrant Re-  
24      sponsibility Act of 1996.

1           “(21) ZONE 2 OCCUPATION.—The term ‘zone 2  
2           occupation’ means an occupation that requires some  
3           preparation and is classified as a zone 2 occupation  
4           on—

5                   “(A) the Occupational Information Net-  
6                   work Database (O\*NET) on the date of the en-  
7                   actment of the Illegal Immigration Reform and  
8                   Immigrant Responsibility Act of 1996; or

9                   “(B) such Database or a similar successor  
10                  database, as designated by the Secretary of  
11                  Labor, after the date of the enactment of the  
12                  Illegal Immigration Reform and Immigrant Re-  
13                  sponsibility Act of 1996.

14           “(22) ZONE 3 OCCUPATION.—The term ‘zone 3  
15           occupation’ means an occupation that requires me-  
16           dium preparation and is classified as a zone 3 occu-  
17           pation on—

18                   “(A) the Occupational Information Net-  
19                   work Database (O\*NET) on the date of the en-  
20                   actment of the Illegal Immigration Reform and  
21                   Immigrant Responsibility Act of 1996; or

22                   “(B) such Database or a similar successor  
23                   database, as designated by the Secretary of  
24                   Labor, after the date of the enactment of the

## 1053

1           Illegal Immigration Reform and Immigrant Re-  
2           sponsibility Act of 1996.

3           “(b) ADMISSION INTO THE UNITED STATES.—

4           “(1) W NONIMMIGRANTS.—Subject to this sec-  
5           tion, a certified alien is eligible to be admitted to the  
6           United States as a W nonimmigrant if the alien is  
7           hired by a registered employer for employment in a  
8           registered position in a location that is not an ex-  
9           cluded geographic location.

10          “(2) SPOUSE AND MINOR CHILDREN.—The—

11           “(A) alien spouse and minor children of a  
12           W nonimmigrant may be admitted to the  
13           United States pursuant to clause (ii) of section  
14           101(a)(15)(W) during the period of the prin-  
15           cipal W nonimmigrant’s admission; and

16           “(B) such alien spouse shall be—

17           “(i) authorized to engage in employ-  
18           ment in the United States during such pe-  
19           riod of admission; and

20           “(ii) provided with an employment au-  
21           thorization document, stamp, or other ap-  
22           propriate work permit.

23          “(c) W NONIMMIGRANTS.—

24          “(1) CERTIFIED ALIEN.—

1           “(A) APPLICATION.—An alien seeking to  
2           be a W nonimmigrant shall apply to the Sec-  
3           retary of State at a United States embassy or  
4           consulate in a foreign country to be a certified  
5           alien.

6           “(B) CRITERIA.—An alien is eligible to be  
7           a certified alien if the alien—

8                   “(i) is not inadmissible under this  
9                   Act;

10                   “(ii) passes a criminal background  
11                   check;

12                   “(iii) agrees to accept only registered  
13                   positions in the United States; and

14                   “(iv) meets other criteria as estab-  
15                   lished by the Secretary.

16           “(2) W NONIMMIGRANT STATUS.—Only an alien  
17           that is a certified alien may be admitted to the  
18           United States as a W nonimmigrant.

19           “(3) INITIAL EMPLOYMENT.—A W non-  
20           immigrant shall report to such nonimmigrant’s ini-  
21           tial employment in a registered position not later  
22           than 14 days after such nonimmigrant is admitted  
23           to the United States.

24           “(4) TERM OF ADMISSION.—

1           “(A) INITIAL TERM.—A certified alien may  
2           be granted W nonimmigrant status for an ini-  
3           tial period of 3 years.

4           “(B) RENEWAL.—A W nonimmigrant may  
5           renew his or her status as a W nonimmigrant  
6           for additional 3-year periods. Such a renewal  
7           may be made while the W nonimmigrant is in  
8           the United States and shall not require the  
9           alien to depart the United States.

10          “(5) PERIODS OF UNEMPLOYMENT.—A W non-  
11          immigrant—

12               “(A) may be unemployed for a period of  
13               not more than 60 consecutive days; and

14               “(B) shall depart the United States if such  
15               W nonimmigrant is unable to obtain employ-  
16               ment during such period.

17          “(6) TRAVEL.—A W nonimmigrant may travel  
18          outside the United States and be readmitted to the  
19          United States. Such travel may not extend the pe-  
20          riod of authorized admission of such W non-  
21          immigrant.

22          “(d) REGISTERED EMPLOYER.—

23               “(1) APPLICATION.—An employer seeking to be  
24               a registered employer shall submit an application to

1 the Secretary. Each such application shall include  
2 the following:

3 “(A) Documentation to establish that the  
4 employer is a bona-fide employer.

5 “(B) The employer’s Federal tax identi-  
6 fication number or employer identification num-  
7 ber issued by the Internal Revenue Service.

8 “(C) The number of W nonimmigrants the  
9 employer estimates it will seek to employ annu-  
10 ally.

11 “(2) REFERRAL FOR FRAUD INVESTIGATION.—  
12 The Secretary may refer an application submitted  
13 under paragraph (1) or subsection (e)(1)(A) to the  
14 Fraud Detection and National Security Directorate  
15 of U.S. Citizenship and Immigration Services if  
16 there is evidence of fraud for potential investigation.

17 “(3) INELIGIBLE EMPLOYERS.—

18 “(A) IN GENERAL.—Notwithstanding any  
19 other applicable penalties under law, the Sec-  
20 retary may deny an employer’s application to be  
21 a registered employer if the Secretary deter-  
22 mines, after notice and an opportunity for a  
23 hearing, that the employer submitting such ap-  
24 plication—



1057

1 “(i) has, with respect to the applica-  
2 tion required under paragraph (1), includ-  
3 ing any attestations required by law—

4 “(I) knowingly misrepresented a  
5 material fact;

6 “(II) knowingly made a fraudu-  
7 lent statement; or

8 “(III) knowingly failed to comply  
9 with the terms of such attestations; or

10 “(ii) failed to cooperate in the audit  
11 process in accordance with regulations pro-  
12 mulgated by the Secretary;

13 “(iii) has been convicted of an offense  
14 set out in chapter 77 of title 18, United  
15 States Code, or any conspiracy to commit  
16 such offenses, or any human trafficking of-  
17 fense under State or territorial law;

18 “(iv) has, within 2 years prior to the  
19 date of application—

20 “(I) received a final adjudication  
21 of having committed any hazardous  
22 occupation orders violation resulting  
23 in injury or death under the child  
24 labor provisions contained in section  
25 12 of the Fair Labor Standards Act

1058

1 of 1938 (29 U.S.C. 211) and any per-  
2 tinent regulation;

3 “(II) received a final adjudication  
4 assessing a civil money penalty for  
5 any repeated or willful violation of the  
6 minimum wage provisions of section 6  
7 of the Fair Labor Standards Act of  
8 1938 (29 U.S.C. 206); or

9 “(III) received a final adjudica-  
10 tion assessing a civil money penalty  
11 for any willful violation of the over-  
12 time provisions of section 7 of the  
13 Fair Labor Standards Act of 1938 or  
14 any regulations thereunder; or

15 “(v) has, within 2 years prior to the  
16 date of application, received a final adju-  
17 dication for a willful violation or repeated  
18 serious violations involving injury or  
19 death—

20 “(I) of section 5 of the Occupa-  
21 tional Safety and Health Act of 1970  
22 (29 U.S.C. 654);

23 “(II) of any standard, rule, or  
24 order promulgated pursuant to section  
25 6 of the Occupational Safety and

1059

1 Health Act of 1970 (29 U.S.C. 655);  
2 or

3 “(III) of a plan approved under  
4 section 18 of the Occupational Safety  
5 and Health Act of 1970 (29 U.S.C.  
6 667).

7 “(B) LENGTH OF INELIGIBILITY.—

8 “(i) TEMPORARY INELIGIBILITY.—An  
9 employer described in subparagraph (A)  
10 may be ineligible to be a registered em-  
11 ployer for a period that is not less than the  
12 time period determined by the Secretary  
13 and not more than 3 years.

14 “(ii) PERMANENT INELIGIBILITY.—  
15 An employer who has been convicted of  
16 any offense set out in chapter 77 of title  
17 18, United States Code, or any conspiracy  
18 to commit such offenses, or any human  
19 trafficking offense under State or terri-  
20 torial law shall be permanently ineligible to  
21 be a registered employer.

22 “(4) TERM OF REGISTRATION.—The Secretary  
23 shall approve applications meeting the criteria of  
24 this subsection for a term of 3 years.

1           “(5) RENEWAL.—An employer may submit an  
2           application to renew the employer’s status as a reg-  
3           istered employer for additional 3-year periods.

4           “(6) FEE.—At the time an employer’s applica-  
5           tion to be a registered employer or to renew such  
6           status is approved, such employer shall pay a fee in  
7           an amount determined by the Secretary to be suffi-  
8           cient to cover the costs of the registry of such em-  
9           ployers.

10          “(7) CONTINUED ELIGIBILITY.—Each reg-  
11          istered employer shall submit to the Secretary an  
12          annual report that demonstrates that the registered  
13          employer has provided the wages and working condi-  
14          tions the registered employer agreed to provide to its  
15          employees.

16          “(e) REGISTERED POSITIONS.—

17               “(1) IN GENERAL.—

18                   “(A) APPLICATION.—Each registered em-  
19                   ployer shall submit to the Secretary an applica-  
20                   tion to designate a position for which the em-  
21                   ployer is seeking a W nonimmigrant as a reg-  
22                   istered position. The Secretary is authorized to  
23                   determine if the wage to be paid by the em-  
24                   ployer complies with subparagraph (B)(iv).

1061

1 Each such application shall include a descrip-  
2 tion of each such position.

3 “(B) ATTESTATION.—An application sub-  
4 mitted under subparagraph (A) shall include an  
5 attestation of the following:

6 “(i) The number of full-time equiva-  
7 lent employees of the employer.

8                   “(ii) The occupational category, as  
9                   classified by the Secretary of Labor, for  
10                  which the registered position is sought.

“(iii) Whether the occupation for which the registered position is sought is a shortage occupation.

“(iv) Except as provided in subsection (g)(4)(C)(i), the wages to be paid to W nonimmigrants employed by the employer in the registered position, including a position in a shortage occupation, will be the greater of—

20 “(I) the actual wage level paid by  
21 the employer to other employees with  
22 similar experience and qualifications  
23 for such position; or

24 “(II) the prevailing wage level for  
25 the occupational classification of the

1 position in the metropolitan statistical  
2 area of the employment, as deter-  
3 mined by the Secretary, based on the  
4 best information available as of the  
5 time of filing the application.

6 “(v) The working conditions for W  
7 nonimmigrants will not adversely affect the  
8 working conditions of other workers em-  
9 ployed in similar positions.

10 “(vi) The employer has carried out  
11 the recruiting activities required by para-  
12 graph (2)(B).

13 “(vii) There is no qualified United  
14 States worker who has applied for the po-  
15 sition and who is ready, willing, and able  
16 to fill such position pursuant to the re-  
17 quirements in subparagraphs (B) and (C)  
18 of paragraph (2).

19 “(viii) There is not a strike, lockout,  
20 or work stoppage in the course of a labor  
21 dispute in the occupation at the place of  
22 employment at which the W nonimmigrant  
23 will be employed. If such strike, lockout, or  
24 work stoppage occurs following submission  
25 of the application, the employer will pro-

1           vide notification in accordance with all ap-  
2           plicable regulations.

3           “(ix)(I) The employer has not laid off  
4           and will not layoff a United States worker  
5           during the period beginning 90 days prior  
6           to and ending 90 days after the date the  
7           employer files an application for designa-  
8           tion of a position for which the W non-  
9           immigrant is sought or hires such W non-  
10          immigrant, unless the employer has noti-  
11          fied such United States worker of the posi-  
12          tion and documented the legitimate rea-  
13          sons that such United States worker is not  
14          qualified or available for the position.

15          “(II) A United States worker is not  
16          laid off for purposes of this subparagraph  
17          if, at the time such worker’s employment is  
18          terminated, such worker is not employed in  
19          the same occupation and in the same met-  
20          ropolitan statistical area where the reg-  
21          istered position referred to in subclause (I)  
22          is located.

23          “(C) BEST INFORMATION AVAILABLE.—In  
24          subparagraph (B)(iv)(II), the term ‘best infor-

1 mation available’, with respect to determining  
2 the prevailing wage for a position, means—

3 “(i) a controlling collective bargaining  
4 agreement or Federal contract wage, if ap-  
5 plicable;

6 “(ii) if there is no applicable wage  
7 under clause (i), the wage level commensu-  
8 rate with the experience, training, and su-  
9 pervision required for the job based on Bu-  
10 reau of Labor Statistics data; or

11 “(iii) if the data referred to in clause  
12 (ii) is not available, a legitimate and recent  
13 private survey of the wages paid for such  
14 positions in the metropolitan statistical  
15 area.

16 “(D) PERMIT.—The Secretary shall pro-  
17 vide each registered employer whose application  
18 submitted under subparagraph (A) is approved  
19 with a permit that includes the number and de-  
20 scription of such employer’s approved registered  
21 positions.

22 “(E) TERM OF REGISTRATION.—The ap-  
23 proval of a registered position under subpara-  
24 graph (A) is for a term that begins on the date  
25 of such approval and ends on the earlier of—



1065

1 “(i) the date the employer’s status as  
2 a registered employer is terminated;

3 “(ii) 3 years after the date of such ap-  
4 proval; or

5 “(iii) upon proper termination of the  
6 registered position by the employer.

7 “(F) REGISTRY OF REGISTERED POSI-  
8 TIONS.—

9 “(i) MAINTENANCE OF REGISTRY.—  
10 The Secretary shall develop and maintain  
11 a registry of approved registered positions  
12 for which the Secretary has issued a per-  
13 mit under subparagraph (D).

14 “(ii) AVAILABILITY ON WEBSITE.—  
15 The registry required by clause (i) shall be  
16 accessible on a website maintained by the  
17 Secretary.

18 “(iii) AVAILABILITY ON STATE WORK-  
19 FORCE AGENCY WEBSITES.—Each State  
20 workforce agency shall be linked to such  
21 registry and provide access to such registry  
22 through the website maintained by such  
23 agency.

24 “(iv) CONDITIONS OF AVAILABILITY  
25 ON WEBSITE.—

1066

1                   “(I) IN GENERAL.—Each ap-  
2                   proved registered position for which  
3                   the Secretary has issued a permit  
4                   shall be included in the registry of  
5                   registered positions maintained by the  
6                   Secretary and shall remain available  
7                   for viewing on such registry through-  
8                   out the term of registration referred  
9                   to in subparagraph (E) or paragraph  
10                  (5).

11                  “(II) INDICATION OF VACANCY.—  
12                  The Secretary shall ensure that such  
13                  registry indicates whether each ap-  
14                  proved registered position in the reg-  
15                  istry is filled or unfilled.

16                  “(III) REQUIREMENT FOR 10-DAY  
17                  POSTING.—If a W nonimmigrant’s  
18                  employment in a registered position  
19                  ends, either voluntarily or involun-  
20                  tarily, the Secretary shall ensure that  
21                  such registry indicates that the reg-  
22                  istered position is unfilled for a period  
23                  of 10 calendar days, unless such reg-  
24                  istered position is filled by a United  
25                  States worker.

1067

1 “(2) REQUIREMENTS.—

2 “(A) ELIGIBLE OCCUPATION.—Each reg-  
3 istered position shall be for a position in an eli-  
4 gible occupation as described in paragraph (3).

5 “(B) RECRUITMENT OF UNITED STATES  
6 WORKERS.—

7 “(i) REQUIREMENTS.—A position may  
8 not be a registered position unless the reg-  
9 istered employer—

10 “(I) advertises the position for a  
11 period of 30 days, including the wage  
12 range, location, and proposed start  
13 date—

14 “(aa) on the Internet  
15 website maintained by the Sec-  
16 retary of Labor for the purpose  
17 of such advertising; and

18 “(bb) with the workforce  
19 agency of the State where the po-  
20 sition will be located; and

21 “(II) except as provided for in  
22 subsection (g)(4)(B)(i), carries out  
23 not less than 3 of the recruiting ac-  
24 tivities described in subparagraph (C).

1 “(ii) DURATION OF ADVERTISING.—

2 The 30 day periods required by item (aa)  
3 of (bb) of clause (i)(I) may occur at the  
4 same time.

5 “(C) RECRUITING ACTIVITIES.—The re-  
6 cruiting activities described in this subpara-  
7 graph, with respect to a position for which the  
8 employer is seeking a W nonimmigrant, shall  
9 consist of any combination of the following as  
10 defined by the Secretary of Homeland Security:

11 “(i) Advertising such position at job  
12 fairs.

13 “(ii) Advertising such position on the  
14 employer’s external website.

15 “(iii) Advertising such position on job  
16 search Internet websites.

17 “(iv) Advertising such position using  
18 presentations or postings at vocational, ca-  
19 reer technical schools, community colleges,  
20 high schools, or other educational or train-  
21 ing sites.

22 “(v) Posting such position with trade  
23 associations.

24 “(vi) Utilizing a search firm to seek  
25 applicants for such position.

1                   “(vii) Advertising such position  
2                   through recruitment programs with place-  
3                   ment offices at vocational schools, career  
4                   technical schools, community colleges, high  
5                   schools, or other educational or training  
6                   sites.

7                   “(viii) Advertising such position  
8                   through advertising or postings with local  
9                   libraries, journals, or newspapers.

10                  “(ix) Seeking a candidate for such po-  
11                  sition through an employee referral pro-  
12                  gram with incentives.

13                  “(x) Advertising such position on  
14                  radio or television.

15                  “(xi) Advertising such position  
16                  through advertising, postings, or presen-  
17                  tations with newspapers, Internet websites,  
18                  job fairs, or community events targeted to  
19                  constituencies designed to increase em-  
20                  ployee diversity.

21                  “(xii) Advertising such position  
22                  through career day presentations at local  
23                  high schools or community organizations.

24                  “(xiii) Providing in-house training.

25                  “(xiv) Providing third-party training.

## 1070

1                   “(xv) Advertising such position  
2                   through recruitment, educational, or other  
3                   cooperative programs offered by the em-  
4                   ployer and a local economic development  
5                   authority.

6                   “(xvi) Advertising such position twice  
7                   in the Sunday ads in the primary daily cir-  
8                   culation newspaper in the area.

9                   “(xvii) Any other recruitment activi-  
10                  ties determined to be appropriate to be  
11                  added by the Commissioner.

12               “(3) ELIGIBLE OCCUPATION.—

13               “(A) IN GENERAL.—An occupation is an  
14               eligible occupation if the occupation—

15               “(i) is a zone 1 occupation, a zone 2  
16               occupation, or zone 3 occupation; and

17               “(ii) is not an excluded occupation  
18               under subparagraph (B).

19               “(B) EXCLUDED OCCUPATIONS.—

20               “(i) OCCUPATIONS REQUIRING COL-  
21               LEGE DEGREES.—An occupation that is  
22               listed in the Occupational Outlook Hand-  
23               book published by the Bureau of Labor  
24               Statistics (or similar successor publication)  
25               that is classified as requiring an individual

1071

1 with a bachelor's degree or higher level of  
2 education may not be an eligible occupa-  
3 tion.

4 “(ii) COMPUTER OCCUPATIONS.—An  
5 occupation in the field of computer oper-  
6 ation, computer programming, or computer  
7 repair may not be an eligible occupation.

8 “(C) PUBLICATION.—The Secretary of  
9 Labor shall publish the eligible occupations,  
10 designated as zone 1 occupations, zone 2 occu-  
11 pations, or zone 3 occupations, on an on-going  
12 basis on a publicly available website.

13 “(4) FILLING OF VACANCIES.—If a W non-  
14 immigrant's employment in a registered position  
15 ends, such employer may fill that vacancy—

16 “(A) by hiring a United States worker; or

17 “(B) after the 10 calendar day posting pe-  
18 riod in subsection (e)(1)(F)(iv)(III) by hiring—

19 “(i) a W nonimmigrant; or

20 “(ii) if available under subsection  
21 (g)(4), a certified alien.

22 “(5) PERIOD OF APPROVAL.—

23 “(A) IN GENERAL.—Except as provided in  
24 subparagraph (B), a registered position shall be

1 approved by the Secretary for a period of 3  
2 years.

3 “(B) RETURNING W NONIMMIGRANTS.—

4 “(i) EXTENSION OF PERIOD.—A reg-  
5 istered position shall continue to be a reg-  
6 istered position at the end of the 3-year  
7 period referred to in subparagraph (A) if  
8 the W nonimmigrant hired for such posi-  
9 tion is the beneficiary of a petition for im-  
10 migrant status filed by the registered em-  
11 ployer pursuant to this Act or is returning  
12 to the same registered employer.

13 “(ii) TERMINATION OF PERIOD.—The  
14 term of a registration position extended  
15 under clause (i) shall terminate on the  
16 date that is the earlier of—

17 “(I) the date an application or  
18 petition by or for a W nonimmigrant  
19 to obtain immigrant status is ap-  
20 proved or denied by the Secretary; or

21 “(II) the date of the termination  
22 of such W nonimmigrant’s employ-  
23 ment with the registered employer.

24 “(6) FEES.—

25 “(A) REGISTRATION FEE.—



## 1073

1           “(i) IN GENERAL.—At the time a W  
2           nonimmigrant commences employment in  
3           the registered position for a registered em-  
4           ployer, such employer shall pay a registra-  
5           tion fee in an amount determined by the  
6           Secretary.

7           “(ii) USE OF FEE.—A fee collected  
8           under clause (i) shall be used to fund any  
9           aspect of the operation of the W Visa Pro-  
10          gram.

11          “(B) ADDITIONAL FEE.—

12           “(i) IN GENERAL.—In addition to the  
13           fee required by subparagraph (A), a reg-  
14           istered employer, at the time a W non-  
15           immigrant commences employment in the  
16           registered position for the registered em-  
17           ployer, shall pay an additional fee for each  
18           such approved registered position as fol-  
19           lows:

20           “(I) A fee of \$1,750 for the reg-  
21           istered position if the registered em-  
22           ployer, at the time of filing the appli-  
23           cation for the registered position, is a  
24           small business and more than 50 per-  
25           cent and less than 75 percent of the

1074

1 employees of the registered employer  
2 are not United States workers.

3 “(II) A fee of \$3,500 for the reg-  
4 istered position if the registered em-  
5 ployer, at the time of filing the appli-  
6 cation for the registered position, is a  
7 small business and more than 75 per-  
8 cent of the employees of the registered  
9 employer are not United States work-  
10 ers.

11 “(III) A fee of \$3,500 for the  
12 registered position if the registered  
13 employer, at the time of filing the ap-  
14 plication for the registered position, is  
15 not a small business and more than  
16 15 percent and less than 30 percent  
17 of the employees of the registered em-  
18 ployer are not United States workers.

19 “(ii) USE OF FEE.—A fee collected  
20 under clause (i) shall be used to fund the  
21 operations of the Bureau.

22 “(C) PROHIBITION ON OTHER FEES.—A  
23 registered employer may not be required to pay  
24 an additional fee other than any fees specified

1           in this Act if the registered employer is a small  
2           business.

3           “(7) PROHIBITION ON REGISTERED POSITIONS  
4           FOR CERTAIN EMPLOYERS.—The Secretary may not  
5           approve an application for a registered position for  
6           an employer if the employer is not a small business  
7           and 30 percent or more of the employees of the em-  
8           ployer are not United States workers.

9           “(f) EXCLUDED GEOGRAPHIC LOCATION.—No appli-  
10          cation for a registered position filed by a registered em-  
11          ployer for an eligible occupation may be approved if the  
12          registered position is located in a metropolitan statistical  
13          area that has an unemployment rate that is more than  
14          8½ percent as reported in the most recent month pre-  
15          ceding the date that the application is submitted to the  
16          Secretary unless—

17               “(1) the Commissioner has identified the eligi-  
18          ble occupation as a shortage occupation; or

19               “(2) the Secretary approves the registered posi-  
20          tion under subsection (g)(4).

21          “(g) NUMERICAL LIMITATION.—

22               “(1) REGISTERED POSITIONS.—

23                       “(A) IN GENERAL.—Subject to paragraphs  
24                       (3) and (4), the maximum number of registered

1076

1 positions that may be approved by the Sec-  
2 retary for a year is as follows:

3 “(i) For the first year aliens are ad-  
4 mitted as W nonimmigrants, 20,000.

5 “(ii) For the second such year,  
6 35,000.

7 “(iii) For the third such year, 55,000.

8 “(iv) For the fourth such year,  
9 75,000.

10 “(v) For each year after the fourth  
11 such year, the level calculated for that year  
12 under paragraph (2).

13 “(B) DATES.—The first year referred to in  
14 subparagraph (A)(i) shall begin on April 1,  
15 2015, and end on March 31, 2016, unless the  
16 Secretary determines that such first year shall  
17 begin on October 1, 2015, and end on Sep-  
18 tember 30, 2016.

19 “(2) YEARS AFTER YEAR 4.—

20 “(A) CURRENT YEAR AND PRECEDING  
21 YEAR.—In this paragraph—

22 “(i) the term ‘current year’ shall refer  
23 to the 12-month period for which the cal-  
24 culation of the numerical limits under this  
25 paragraph is being performed; and

1077

1 “(ii) the term ‘preceding year’ shall  
2 refer to the 12-month period immediately  
3 preceding the current year.

4 “(B) NUMERICAL LIMITATION.—Subject to  
5 subparagraph (D), the number of registered po-  
6 sitions that may be approved by the Secretary  
7 for a year after the fourth year referred to in  
8 paragraph (1)(A)(iv) shall be equal to the sum  
9 of—

10 “(i) the number of such registered po-  
11 sitions available under this paragraph for  
12 the preceding year; and

13 “(ii) the product of—

14 “(I) the number of such reg-  
15 istered positions available under this  
16 paragraph for the preceding year;  
17 multiplied by

18 “(II) the index for the current  
19 year calculated under subparagraph  
20 (C).

21 “(C) INDEX.—The index calculated under  
22 this subparagraph for a current year equals the  
23 sum of—

24 “(i) one-fifth of a fraction—

1078

1 “(I) the numerator of which is  
2 the number of registered positions  
3 that registered employers applied to  
4 have approved under subsection (e)(1)  
5 for the preceding year minus the  
6 number of registered positions ap-  
7 proved under subsection (e) for the  
8 preceding year; and

9 “(II) the denominator of which is  
10 the number of registered positions ap-  
11 proved under subsection (e) for the  
12 preceding year;

13 “(ii) one-fifth of a fraction—

14 “(I) the numerator of which is  
15 the number of registered positions the  
16 Commissioner recommends be avail-  
17 able under this subparagraph for the  
18 current year minus the number of  
19 registered positions available under  
20 this subsection for the preceding year;  
21 and

22 “(II) the denominator of which is  
23 the number of registered positions  
24 available under this subsection for the  
25 preceding year;

1079

1 “(iii) three-tenths of a fraction—

2 “(I) the numerator of which is  
3 the number of unemployed United  
4 States workers for the preceding year  
5 minus the number of unemployed  
6 United States workers for the current  
7 year; and

8 “(II) the denominator of which is  
9 the number of unemployed United  
10 States workers for the preceding year;  
11 and

12 “(iv) three-tenths of a fraction—

13 “(I) the numerator of which is  
14 the number of job openings as set out  
15 in the Job Openings and Labor Turn-  
16 over Survey of the Bureau of Labor  
17 Statistics for the current year minus  
18 such number of job openings for the  
19 preceding year; and

20 “(II) the denominator of which is  
21 the number of such job openings for  
22 the preceding year;

23 “(D) MINIMUM AND MAXIMUM LEVELS.—

24 The number of registered positions calculated  
25 under subparagraph (B) for a 12-month period

1080

1           may not be less than 20,000 nor more than  
2           200,000.

3           “(3) ADDITIONAL REGISTERED POSITIONS FOR  
4           SHORTAGE OCCUPATIONS.—In addition to the num-  
5           ber of registered positions made available for a year  
6           under paragraph (1), the Secretary shall make avail-  
7           able for a year an additional number of registered  
8           positions for shortage occupations in a particular  
9           metropolitan statistical area.

10          “(4) SPECIAL ALLOCATIONS OF REGISTERED  
11          POSITIONS.—

12                 “(A) AUTHORITY TO MAKE AVAILABLE.—  
13           In addition to the number of registered posi-  
14           tions made available for a year under para-  
15           graph (1) or (3), the Secretary shall make addi-  
16           tional registered positions available for the year  
17           for a specific registered employer as described  
18           in this paragraph, if—

19                 “(i) the maximum number of reg-  
20           istered positions available under paragraph  
21           (1) have been approved for the year and  
22           none remain available for allocation; or

23                 “(ii) such registered employer is lo-  
24           cated in a metropolitan statistical area  
25           that has an unemployment rate that is



1081

1 more than 8½ percent as reported in the  
2 most recent month preceding the date that  
3 the application is submitted to the Sec-  
4 retary.

5 “(B) RECRUITMENT.—

6 “(i) IN GENERAL.—Except as pro-  
7 vided in clause (ii), an initial W non-  
8 immigrant may only enter the United  
9 States for initial employment pursuant to  
10 a special allocation under this paragraph if  
11 the registered employer has carried out at  
12 least 7 of the recruiting activities described  
13 in subsection (e)(2)(C).

14 “(ii) REQUIREMENT TO RECRUIT W  
15 NONIMMIGRANTS IN THE UNITED  
16 STATES.—A registered employer may reg-  
17 ister a position pursuant to a special allo-  
18 cation under this paragraph by conducting  
19 at least 3 of the recruiting activities de-  
20 scribed in subsection (e)(2)(C), however a  
21 position registered pursuant to this clause  
22 may not be filled by an initial W non-  
23 immigrant entering the United States for  
24 initial employment.

25 “(iii) 30 DAY POSTING.—

1082

1                   “(I) REQUIREMENT.—Any reg-  
2                   istered employer registering any posi-  
3                   tion under the special allocation au-  
4                   thority shall post the position, includ-  
5                   ing the wage range, location, and ini-  
6                   tial date of employment, for not less  
7                   than 30 days—

8                   “(aa) on the Internet  
9                   website maintained by the Sec-  
10                  retary of Labor for the purpose  
11                  of such advertising; and

12                  “(bb) with the workforce  
13                  agency of the State where the po-  
14                  sition will be located.

15                  “(II) CONTEMPORANEOUS POST-  
16                  ING.—The 30 day periods required by  
17                  items (aa) and (bb) of subclause (I)  
18                  may occur at the same time.

19                  “(C) WAGES.—

20                  “(i) INITIAL W NONIMMIGRANTS.—An  
21                  initial W nonimmigrant entering the  
22                  United States for initial employment pur-  
23                  suant to a registered position made avail-  
24                  able under this paragraph may not be paid  
25                  less than the greater of—

1083

1 “(I) the level 4 wage set out in  
2 the Foreign Labor Certification Data  
3 Center Online Wage Library (or simi-  
4 lar successor website) maintained by  
5 the Secretary of Labor for such occu-  
6 pation in that metropolitan statistical  
7 area; or

8 “(II) the mean of the highest  
9 two-thirds of wages surveyed for such  
10 occupation in that metropolitan statis-  
11 tical area.

12 “(ii) OTHER W NONIMMIGRANTS.—A  
13 W nonimmigrant employed in a registered  
14 position referred to in subsection  
15 (g)(4)(B)(ii) may not be paid less than the  
16 wages required under subsection  
17 (e)(1)(B)(iv).

18 “(D) REDUCTION OF FUTURE REGISTERED  
19 POSITIONS.—Each registered position made  
20 available for a year subject to the wage condi-  
21 tions of subparagraph (C)(i) shall reduce by 1  
22 the number of registered positions made avail-  
23 able under paragraph (g)(1) for the following  
24 year or the earliest possible year for which a  
25 registered position is available. The limitation

1 contained in subsection (h)(4) shall not be re-  
2 duced by any registered position made available  
3 under this paragraph.

4 “(h) ALLOCATION OF REGISTERED POSITIONS.—

5 “(1) IN GENERAL.—

6 “(A) FIRST 6-MONTH PERIOD.—The num-  
7 ber of registered positions available for the 6-  
8 month period beginning on the first day of a  
9 year is 50 percent of the maximum number of  
10 registered positions available for such year  
11 under paragraph (1) or (2) of subsection (g).  
12 Such registered positions shall be allocated as  
13 described in this subsection.

14 “(B) SECOND 6-MONTH PERIOD.—The  
15 number of registered positions available for the  
16 6-month period ending on the last day of a year  
17 is the maximum number of registered positions  
18 available for such year under paragraph (1) or  
19 (2) of subsection (g) minus the number of reg-  
20 istered positions approved during the 6-month  
21 period referred to in subsection (A). Such reg-  
22 istered positions shall be allocated as described  
23 in this subsection.

24 “(2) SHORTAGE OCCUPATIONS.—

1           “(A) IN GENERAL.—For the first month of  
2           each 6-month period referred to in subpara-  
3           graph (A) or (B) of paragraph (1) a registered  
4           position may not be created in an occupation  
5           that is not a shortage occupation.

6           “(B) INITIAL DESIGNATIONS.—Subpara-  
7           graph (A) shall not apply in any period for  
8           which the Commissioner has not designated any  
9           shortage occupations.

10          “(3) SMALL BUSINESSES.—During the second,  
11          third, and fourth months of each 6-month period re-  
12          ferred to in subparagraph (A) or (B) of paragraph  
13          (1), one-third of the number of registered positions  
14          allocated for such period shall be approved only for  
15          a registered employer that is a small business. Any  
16          such registered positions not approved for such  
17          small businesses during such months shall be avail-  
18          able for any registered employer during the last 2  
19          months of each such 6-month period.

20          “(4) ANIMAL PRODUCTION SUBSECTORS.—In  
21          addition to the number of registered positions made  
22          available for a year under paragraph (1) or (3) of  
23          such section (g), the Secretary shall make additional  
24          registered positions available for the year for occupa-  
25          tions designated by the Secretary of Labor as Ani-

1 mal Production Subsectors. The numerical limitation  
2 for such additional registered positions shall be no  
3 more than 10 percent of the annual numerical limi-  
4 tation provided for in such paragraph (1).

5 “(5) LIMITATION FOR CONSTRUCTION OCCUPA-  
6 TIONS.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B), not more than 33 percent of the reg-  
9 istered positions made available under para-  
10 graph (1) or (2) of subsection (g) for a year  
11 may be granted to perform work in a construc-  
12 tion occupation.

13 “(B) MAXIMUM LEVEL.—Notwithstanding  
14 subparagraph (A), the number of registered po-  
15 sitions granted to perform work in a construc-  
16 tion occupation under subsection (g)(1) may  
17 not exceed 15,000 for a year and 7,500 for any  
18 6-month period.

19 “(C) PROHIBITION FOR OCCUPATIONS  
20 WITH HIGH UNEMPLOYMENT.—

21 “(i) IN GENERAL.—A registered em-  
22 ployer may not hire a certified alien for a  
23 registered position to perform work in a  
24 construction occupation if the unemploy-  
25 ment rate for construction occupations in

1 the corresponding occupational job zone in  
2 that metropolitan statistical area was more  
3 than 8½ percent.

4 “(ii) DETERMINATION OF UNEMPLOY-  
5 MENT RATE.—The unemployment rate  
6 used in clause (i) shall be determined—

7 “(I) using the most recent survey  
8 taken by the Bureau; or

9 “(II) if a survey referred to in  
10 subclause (I) is not available, using a  
11 recent and legitimate private survey.

12 “(i) PORTABILITY.—A W nonimmigrant who is ad-  
13 mitted to the United States for employment by a reg-  
14 istered employer may—

15 “(1) terminate such employment for any rea-  
16 son; and

17 “(2) seek and accept employment with another  
18 registered employer in any other registered position  
19 within the terms and conditions of the W non-  
20 immigrant’s visa.

21 “(j) PROMOTION.—A registered employer may pro-  
22 mote a W nonimmigrant if the W nonimmigrant has been  
23 employed with that employer for a period of not less than  
24 12 months. Such a promotion shall not increase the total  
25 number of registered positions available to that employer.

1       “(k) PROHIBITION ON OUTPLACEMENT.—A reg-  
2 istered employer may not place, outsource, lease, or other-  
3 wise contract for the services or placement of a W non-  
4 immigrant employee with another employer if more than  
5 15 percent of the employees of the registered employer are  
6 W nonimmigrants.

7       “(l) W NONIMMIGRANT PROTECTIONS.—

8               “(1) APPLICABILITY OF LAWS.—A W non-  
9 immigrant shall not be denied any right or any rem-  
10 edy under Federal, State, or local labor or employ-  
11 ment law that would be applicable to a United  
12 States worker employed in a similar position with  
13 the employer because of the alien’s status as a non-  
14 immigrant worker.

15              “(2) WAIVER OF RIGHTS PROHIBITED.—

16                   “(A) IN GENERAL.—A W nonimmigrant  
17 may not be required to waive any substantive  
18 rights or protections under this Act.

19                   “(B) CONSTRUCTION.—Nothing under this  
20 paragraph may be construed to affect the inter-  
21 pretation of any other law.

22              “(3) PROHIBITION ON TREATMENT AS INDE-  
23 PENDENT CONTRACTORS.—

24                   “(A) IN GENERAL.—Notwithstanding any  
25 other provision of law—



1 “(i) a W nonimmigrant is prohibited  
2 from being treated as an independent con-  
3 tractor under any Federal or State law;  
4 and

5 “(ii) no person, including an employer  
6 or labor contractor and any persons who  
7 are affiliated with or contract with an em-  
8 ployer or labor contractor, may treat a W  
9 nonimmigrant as an independent con-  
10 tractor.

11 “(B) CONSTRUCTION.—Subparagraph (A)  
12 may not be construed to prevent registered em-  
13 ployers who operate as independent contractors  
14 from employing W nonimmigrants.

15 “(4) PAYMENT OF FEES.—

16 “(A) IN GENERAL.—A fee related to the  
17 hiring of a W nonimmigrant required to be paid  
18 by an employer under this Act shall be paid by  
19 the employer and may not be deducted from the  
20 wages or other compensation paid to a W non-  
21 immigrant.

22 “(B) EXCLUDED COSTS.—The cost of  
23 round trip transportation from a certified  
24 alien’s home to the location of a registered posi-  
25 tion and the cost of obtaining a foreign pass-

1 port are not fees required to be paid by the em-  
2 ployer.

3 “(5) TAX RESPONSIBILITIES.—An employer  
4 shall comply with all applicable Federal, State, and  
5 local tax laws with respect to each W nonimmigrant  
6 employed by the employer.

7 “(6) PROHIBITED ACTIVITIES.—It shall be un-  
8 lawful for an employer of a W nonimmigrant to in-  
9 timidate, threaten, restrain, coerce, retaliate, dis-  
10 charge, or in any other manner, discriminate against  
11 an employee or former employee because the em-  
12 ployee or former employee—

13 “(A) discloses information to the employer  
14 or any other person that the employee or  
15 former employee reasonably believes dem-  
16 onstrates a violation of this section; or

17 “(B) cooperates or seeks to cooperate in an  
18 investigation or other proceeding concerning  
19 compliance with the requirements of this sec-  
20 tion.

21 “(m) COMPLAINT PROCESS.—The Secretary shall es-  
22 tablish a process for the receipt, investigation, and disposi-  
23 tion of complaints by an aggrieved applicant, employee,  
24 or nonimmigrant (or a person acting on behalf of such  
25 applicant, employee, or nonimmigrant) with respect to—

1           “(1) the failure of a registered employer to  
2           meet a condition of this section; or

3           “(2) the lay off or nonhiring of a United States  
4           worker as prohibited under this section.

5           “(n) ENFORCEMENT.—

6           “(1) IN GENERAL.—The Secretary shall pro-  
7           mulgate regulations for the receipt, investigation,  
8           and disposition of complaints by an aggrieved W  
9           nonimmigrant respecting a violation of this section.

10          “(2) FILING DEADLINE.—No investigation or  
11          hearing shall be conducted on a complaint con-  
12          cerning a violation under this section unless the  
13          complaint was filed not later than 6 months after  
14          the date of such violation.

15          “(3) REASONABLE BASIS.—The Secretary shall  
16          conduct an investigation under this subsection if  
17          there is reasonable basis to believe that a violation  
18          of this section has occurred. The process established  
19          under this subsection shall provide that, not later  
20          than 30 days after a complaint is filed, the Sec-  
21          retary shall determine if there is reasonable cause to  
22          find such a violation.

23          “(4) NOTICE AND HEARING.—

24                 “(A) IN GENERAL.—Not later than 60  
25                 days after the Secretary makes a determination

1           of reasonable basis under paragraph (3), the  
2           Secretary shall issue a notice to the interested  
3           parties and offer an opportunity for a hearing  
4           on the complaint, in accordance with section  
5           556 of title 5, United States Code.

6           “(B) HEARING DEADLINE.—Not later than  
7           60 days after the date of a hearing under this  
8           paragraph, the Secretary shall make a finding  
9           on the matter.

10          “(5) ATTORNEY’S FEES.—

11               “(A) AWARD.—A complainant who prevails  
12           in an action under this subsection with respect  
13           to a claim related to wages or compensation for  
14           employment, or a claim for a violation of sub-  
15           section (l) or (m), shall be entitled to an award  
16           of reasonable attorney’s fees and costs.

17               “(B) FRIVOLOUS COMPLAINTS.—A com-  
18           plainant who files a frivolous complaint for an  
19           improper purpose under this subsection shall be  
20           liable for the reasonable attorney’s fees and  
21           costs of the person named in the complaint.

22          “(6) POWER OF THE SECRETARY.—The Sec-  
23       retary may bring an action in any court of com-  
24       petent jurisdiction—

1 “(A) to seek remedial action, including in-  
2 junctive relief;

3 “(B) to recover the damages described in  
4 this subsection and subsection (o); or

5 “(C) to ensure compliance with terms and  
6 conditions described in subsection (1)(6).

7           “(7) OTHER RIGHTS OF EMPLOYEES.—The  
8       rights and remedies provided to W nonimmigrants  
9       under this section are in addition to any other con-  
10      tractual or statutory rights and remedies of the  
11      workers, and are not intended to alter or affect such  
12      rights and remedies.

13           “(o) PENALTIES.—

“(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary finds a violation of this section, the Secretary may impose administrative remedies and penalties, including—

18 “(A) back wages;

19 “(B) benefits; and

20 “(C) civil monetary penalties.

21 “(2) CIVIL PENALTIES.—The Secretary may  
22 impose, as a civil penalty—

23 “(A) for a violation of this subsection—

24 “(i) a fine in an amount not more  
25 than \$2,000 per violation per affected

1 worker and \$4,000 per violation per af-  
2 fected worker for each subsequent viola-  
3 tion;

4 “(ii) if the violation was willful, a fine  
5 in an amount not more than \$5,000 per  
6 violation per affected worker; and

7 “(iii) if the violation was willful and if  
8 in the course of such violation a United  
9 States worker was harmed, a fine in an  
10 amount not more than \$25,000 per viola-  
11 tion per affected worker; or

12 “(B) for knowingly failing to materially  
13 comply with the terms of representations made  
14 in petitions, applications, certifications, or at-  
15 testations under this section—

16 “(i) a fine in an amount not more  
17 than \$4,000 per aggrieved worker; and

18 “(ii) upon the occasion of a third of-  
19 fense of failure to comply with representa-  
20 tions, a fine in an amount not to exceed  
21 \$5,000 per affected worker and designa-  
22 tion as an ineligible employer, recruiter, or  
23 broker for purposes of any immigrant or  
24 nonimmigrant program.

1           “(3) CRIMINAL PENALTY.—Any person who  
2           knowingly misrepresents the number of full-time  
3           equivalent employees of an employer or the number  
4           of employees of a person who are United States  
5           workers for the purpose of reducing a fee under sub-  
6           section (e)(6) or avoiding the limitation in sub-  
7           section (e)(7), shall be fined in accordance with title  
8           18, United States Code, in an amount up to  
9           \$25,000 or imprisoned not more than 1 year, or  
10          both.

11          “(p) MONITORING.—

12           “(1) REQUIREMENT TO MONITOR.—The Sec-  
13           retary shall monitor the movement of W non-  
14           immigrants in registered positions through—

15                   “(A) the Employment Verification System  
16                   described in section 274A(d); and

17                   “(B) the electronic monitoring system de-  
18                   scribed in paragraph (2).

19          “(2) ELECTRONIC MONITORING SYSTEM.—

20           “(A) REQUIREMENT FOR SYSTEM.—The  
21           Secretary, through U.S. Citizenship and Immi-  
22           gration Services, shall implement an electronic  
23           monitoring system to monitor presence and em-  
24           ployment of W nonimmigrants, including a re-  
25           quirement that registered employers update the

1 system when W nonimmigrants start and end  
2 employment in registered positions.

3 “(B) SYSTEM DESCRIPTION.—Such system  
4 shall be modeled on the Student and Exchange  
5 Visitor Information System (SEVIS) and  
6 SEVIS II tracking system of U.S. Immigration  
7 and Customs Enforcement.

8 “(C) INTERACTION WITH REGISTRY.—  
9 Such system shall interact with the registry re-  
10 ferred to in subsection (e)(1)(F) to ensure that  
11 the Secretary designates and updates approved  
12 registered positions as being filled or unfilled.”.

13 (b) TABLE OF CONTENTS AMENDMENT.—The table  
14 of contents in the first section (8 U.S.C. 1101 et seq.)  
15 is amended by adding after the item relating to section  
16 219 the following:

“Sec. 220. Admission of W nonimmigrant workers.”.

17 **Subtitle H—Investing in New Ven-**  
18 **ture, Entrepreneurial Startups,**  
19 **and Technologies**

20 **SEC. 4801. NONIMMIGRANT INVEST VISAS.**

21 (a) INVEST NONIMMIGRANT CATEGORY.—Section  
22 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sec-  
23 tions 2231, 2308, 2309, 3201, 4402, 4504, 4601, and  
24 4702, is further amended by inserting after subparagraph  
25 (W) the following:



1           “(X) in accordance with the definitions in  
2           section 203(b)(6)(A), a qualified entrepreneur  
3           who has demonstrated that, during the 3-year  
4           period ending on the date on which the alien  
5           filed an initial petition for nonimmigrant status  
6           described in this clause—

7                   “(i) a qualified venture capitalist, a  
8                   qualified super angel investor, a qualified  
9                   government entity, a qualified community  
10                  development financial institution, qualified  
11                  startup accelerator, or such other type of  
12                  entity or investors, as determined by the  
13                  Secretary, or any combination of such enti-  
14                  ties or investors, has made a qualified in-  
15                  vestment or combination of qualified in-  
16                  vestments of not less than \$100,000 in  
17                  total in the alien’s United States business  
18                  entity; or

19                   “(ii) the alien’s United States busi-  
20                  ness entity has created no fewer than 3  
21                  qualified jobs and during the 2-year period  
22                  ending on such date has generated not less  
23                  than \$250,000 in annual revenue arising  
24                  from business conducted in the United  
25                  States; or”.

1 (b) ADMISSION OF INVEST NONIMMIGRANTS.—Sec-  
2 tion 214 (8 U.S.C. 1184), as amended by sections 3608,  
3 4232, 4405, 4503, 4504, 4602, 4605, and 4606, is further  
4 amended by adding at the end the following:

5 “(aa) INVEST NONIMMIGRANT VISAS.—

6 “(1) DEFINITIONS.—The definitions in section  
7 203(b)(6)(A) apply to this subsection.

8 “(2) INITIAL PERIOD OF AUTHORIZED ADMIS-  
9 SION.—The initial period of authorized status as a  
10 nonimmigrant described in section 101(a)(15)(X)  
11 shall be for an initial 3-year period.

12 “(3) RENEWAL OF ADMISSION.—Subject to  
13 paragraph (4), the initial period of authorized non-  
14 immigrant status described in paragraph (2) may be  
15 renewed for additional 3-year periods if during the  
16 most recent 3-year period that the alien was granted  
17 such status—

18 “(A) the alien’s United States business en-  
19 tity has created no fewer than 3 qualified jobs  
20 and a qualified venture capitalist, a qualified  
21 super angel investor, a qualified government en-  
22 tity, a qualified community development finan-  
23 cial institution, qualified startup accelerator, or  
24 such other type of entity or investors, as deter-  
25 mined by the Secretary, or any combination of

1099

such entities or investors, has made a qualified investment or combination of qualified investments of not less than \$250,000 in total to the alien's United States business entity; or

5                   “(B) the alien’s United States business en-  
6                   tity has created no fewer than 3 qualified jobs  
7                   and, during the 2-year period ending on the  
8                   date that the alien petitioned for an extension,  
9                   has generated not less than \$250,000 in annual  
10                  revenue arising from business conducted within  
11                  the United States.

“(4) WAIVER OF RENEWAL REQUIREMENTS.—

The Secretary may renew an alien’s status as a non-immigrant described in section 101(a)(15)(X) for not more than 1 year at a time, up to an aggregate of 2 years if the alien—

17                   “(A) does not meet the criteria under  
18                   paragraph (3); and

19 “(B) meets the criteria established by the  
20 Secretary, in consultation with the Secretary of  
21 Commerce, for approving renewals under this  
22 subsection, which shall include a finding that—

23 “(i) the alien has made substantial  
24 progress in meeting such criteria; and

1100

1 “(ii) such renewal is economically ben-  
2 eficial to the United States.

3 “(5) ATTESTATION.—The Secretary may re-  
4 quire an alien seeking status as a nonimmigrant de-  
5 scribed in section 101(a)(15)(X) to attest, under  
6 penalty of perjury, that the alien meets the applica-  
7 tion criteria.

8 “(6) X-1 VISA FEE.—In addition to processing  
9 fees, the Secretary shall collect a \$1,000 fee from  
10 each nonimmigrant admitted under section  
11 101(a)(15)(X). Fees collected under this paragraph  
12 shall be deposited into the Comprehensive Immigra-  
13 tion Reform Trust Fund established under section  
14 6(a)(1) of the Illegal Immigration Reform and Im-  
15 migrant Responsibility Act of 1996.”.

16 **SEC. 4802. INVEST IMMIGRANT VISA.**

17 Section 203(b) (8 U.S.C. 1153(b)) is amended—

18 (1) by redesignating paragraph (6) as para-  
19 graph (7); and

20 (2) by inserting after paragraph (5) the fol-  
21 lowing:

22 “(6) INVEST IMMIGRANTS.—

23 “(A) DEFINITIONS.—In this paragraph,  
24 section 101(a)(15)(X), and section 214(s):

## 1101

1 “(i) QUALIFIED COMMUNITY DEVEL-  
2 OPMENT FINANCIAL INSTITUTION.—The  
3 term ‘qualified community development fi-  
4 nancial institution’ is defined as provided  
5 under section 1805.201 45D(c) of title 12,  
6 Code of Federal Regulations, or any simi-  
7 lar successor regulations.

8 “(ii) QUALIFIED ENTREPRENEUR.—  
9 The term ‘qualified entrepreneur’ means  
10 an individual who—

11 “(I) has a significant ownership  
12 interest, which need not constitute a  
13 majority interest, in a United States  
14 business entity;

15 “(II) is employed in a senior ex-  
16 ecutive position of such United States  
17 business entity;

18 “(III) submits a business plan to  
19 U.S. Citizenship and Immigration  
20 Services; and

21 “(IV) had a substantial role in  
22 the founding or early-stage growth  
23 and development of such United  
24 States business entity.

## 1102

1 “(iii) QUALIFIED GOVERNMENT ENTI-  
2 TY.—The term ‘qualified government enti-  
3 ty’ means an agency or instrumentality of  
4 the United States or of a State, local, or  
5 tribal government.

6 “(iv) QUALIFIED INVESTMENT.—The  
7 term ‘qualified investment’—

8 “(I) means an investment in a  
9 qualified entrepreneur’s United States  
10 business entity that is—

11 “(aa) a purchase from the  
12 United States business entity or  
13 equity or convertible debt issued  
14 by such entity;

15 “(bb) a secured loan;

16 “(cc) a convertible debt  
17 note;

18 “(dd) a public securities of-  
19 fering;

20 “(ee) a research and devel-  
21 opment award from a qualified  
22 government entity to the United  
23 States entity;

1103

1 “(ff) other investment deter-  
2 mined appropriate by the Sec-  
3 retary; or

4 “(gg) a combination of the  
5 investments described in items  
6 (aa) through (ff); and

7 “(II) may not include an invest-  
8 ment from such qualified entre-  
9 preneur, the parents, spouse, son, or  
10 daughter of such qualified entre-  
11 preneur, or from any corporation,  
12 company, association, firm, partner-  
13 ship, society, or joint stock company  
14 over which such qualified entre-  
15 preneur has a substantial ownership  
16 interest.

17 “(v) QUALIFIED JOB.—The term  
18 ‘qualified job’ means a full-time position of  
19 a United States business entity owned by  
20 a qualified entrepreneur that—

21 “(I) is located in the United  
22 States;

23 “(II) has been filled for at least  
24 2 years by an individual who is not  
25 the qualified entrepreneur or the

1104

1 spouse, son, or daughter of the quali-  
2 fied entrepreneur; and

3 “(III) pays a wage that is not  
4 less than 250 percent of the Federal  
5 minimum wage.

6 “(vi) QUALIFIED STARTUP ACCEL-  
7 ERATOR.—The term ‘qualified startup ac-  
8 celerator’ means a corporation, company,  
9 association, firm, partnership, society, or  
10 joint stock company that—

11 “(I) is organized under the laws  
12 of the United States or any State and  
13 conducts business in the United  
14 States;

15 “(II) in the ordinary course of  
16 business, provides a program of train-  
17 ing, mentorship, and logistical support  
18 to assist entrepreneurs in growing  
19 their businesses;

20 “(III) is managed by individuals,  
21 the majority of whom are citizens of  
22 the United States or aliens lawfully  
23 admitted for permanent residence;

24 “(IV)(aa) regularly acquires an  
25 equity interest in companies that par-



1105

1           ticipate in its programs, where the  
2           majority of the capital so invested is  
3           committed from individuals who are  
4           United States citizens or aliens law-  
5           fully admitted for permanent resi-  
6           dence, or from entities organized  
7           under the laws of the United States  
8           or any State; or

9                     “(bb) is an entity that has re-  
10           ceived not less than \$250,000 in fund-  
11           ing from a qualified government entity  
12           or entities during the previous 5 years  
13           and regularly makes grants to compa-  
14           nies that participate in its programs  
15           (in which case, such grant shall be  
16           treated as a qualified investment for  
17           purposes of clause (iv));

18                     “(V) during the previous 5 years,  
19           has acquired an equity interest in, or,  
20           in the case of an entity described in  
21           subclause (IV)(bb), regularly made  
22           grants to, not fewer than 10 United  
23           States business entities that have par-  
24           ticipated in its programs and that  
25           have—

1106

1                   “(aa) each secured at least  
2                   \$100,000 in initial investments;  
3                   or

4                   “(bb) during any 2-year pe-  
5                   riod following the date of such  
6                   acquisition, generated not less  
7                   than \$500,000 in aggregate an-  
8                   nual revenue within the United  
9                   States;

10                  “(VI) has its primary location in  
11                  the United States; and

12                  “(VII) satisfies such other cri-  
13                  teria as may be established by the  
14                  Secretary.

15                  “(vii) QUALIFIED SUPER ANGEL IN-  
16                  VESTOR.—The term ‘qualified super angel  
17                  investor’ means an individual or organized  
18                  group of individuals investing directly or  
19                  through a legal entity—

20                  “(I) each of whom is an accred-  
21                  ited investor, as defined in section  
22                  230.501(a) of title 17, Code of Fed-  
23                  eral Regulations, or any similar suc-  
24                  cessor regulation, investing the funds  
25                  owned by such individual or organized

1107

1 group in a qualified entrepreneur's  
2 United States business entity;

3 “(II)(aa) if an individual, is a cit-  
4 izen of the United States or an alien  
5 lawfully admitted for permanent resi-  
6 dence; or

7 “(bb) if an organized group or  
8 legal entity, a majority of the individ-  
9 uals investing through such group or  
10 entity are citizens of the United  
11 States or aliens lawfully admitted for  
12 permanent residence; and

13 “(III) each of whom in the pre-  
14 vious 3 years has made qualified in-  
15 vestments in a total amount deter-  
16 mined to be appropriate by the Sec-  
17 retary, that is not less than \$50,000,  
18 in United States business entities  
19 which are less than 5 years old.

20 “(viii) QUALIFIED VENTURE CAPI-  
21 TALIST.—The term ‘qualified venture capi-  
22 talist’ means an entity—

23 “(I) that—

24 “(aa) is a venture capital  
25 operating company (as defined in

1108

1 section 2510.3–101(d) of title 29,  
2 Code of Federal Regulations (or  
3 any successor to such regula-  
4 tion)); or

5 “(bb) has management  
6 rights, as defined in, and to the  
7 extent required by, such section  
8 2510.3–101(d) (or successor reg-  
9 ulation), in its portfolio compa-  
10 nies;

11 “(II) that has capital commit-  
12 ments of not less than \$10,000,000;  
13 and

14 “(III) the investment adviser,  
15 that is registered under the Invest-  
16 ment Advisers Act of 1940 (15 U.S.C.  
17 80b–2), for which—

18 “(aa) has its primary office  
19 location in the United States;

20 “(bb) is owned, directly or  
21 indirectly, by individuals, the ma-  
22 jority of whom are citizens of the  
23 United States or aliens lawfully  
24 admitted for permanent residence  
25 in the United States;

1109

1                   “(cc) has been advising such  
2                   entity or other similar funds or  
3                   entities for at least 2 years; and

4                   “(dd) has advised such enti-  
5                   ty or a similar fund or entity  
6                   with respect to at least 2 invest-  
7                   ments of not less than \$500,000  
8                   made by such entity or similar  
9                   fund or entity during each of the  
10                  most recent 2 years.

11               “(ix) SECRETARY.—Except as other-  
12               wise specifically provided, the term ‘Sec-  
13               retary’ means the Secretary of Homeland  
14               Security.

15               “(x) SENIOR EXECUTIVE POSITION.—  
16               The term ‘senior executive position’ in-  
17               cludes the position of chief executive offi-  
18               cer, chief technology officer, and chief op-  
19               erating officer.

20               “(xi) UNITED STATES BUSINESS EN-  
21               TITY.—The term ‘United States business  
22               entity’ means any corporation, company,  
23               association, firm, partnership, society, or  
24               joint stock company that is organized  
25               under the laws of the United States or any

1110

1 State and that conducts business in the  
2 United States that is not—

3 “(I) a private fund, as defined in  
4 202(a) of the Investment Advisers Act  
5 of 1940 (15 U.S.C. 80b–2);

6 “(II) a commodity pool, as de-  
7 fined in section 1a of the Commodity  
8 Exchange Act (7 U.S.C. 1a);

9 “(III) an investment company, as  
10 defined in section 3 of the Investment  
11 Company Act of 1940 (15 U.S.C.  
12 80a–3); or

13 “(IV) an issuer that would be an  
14 investment company but for an ex-  
15 emption provided in—

16 “(aa) section 3(c) of the In-  
17 vestment Company Act of 1940  
18 (15 U.S.C. 80a–3(c); or

19 “(bb) section 270.3a–7 of  
20 title 17 of the Code of Federal  
21 Regulations or any similar suc-  
22 cessor regulation.

23 “(B) IN GENERAL.—Visas shall be avail-  
24 able, in a number not to exceed 10,000 for each  
25 fiscal year, to qualified immigrants seeking to

## 1111

1 enter the United States for the purpose of cre-  
2 ating new businesses, as described in this para-  
3 graph.

4 “(C) ELIGIBILITY.—An alien is eligible for  
5 a visa under this paragraph if—

6 “(i)(I) the alien is a qualified entre-  
7 preneur;

8 “(II) the alien maintained valid non-  
9 immigrant status in the United States for  
10 at least 2 years;

11 “(III) during the 3-year period ending  
12 on the date the alien files an initial peti-  
13 tion for such status under this section—

14 “(aa)(AA) the alien has a signifi-  
15 cant ownership in a United States  
16 business entity that has created no  
17 fewer than 5 qualified jobs; and

18 “(BB) a qualified venture capi-  
19 talist, a qualified super angel investor,  
20 a qualified government entity, a quali-  
21 fied community development financial  
22 institution, qualified startup accel-  
23 erator, or such other entity or type of  
24 investors, as determined by the Sec-  
25 retary, or any combination of such en-

1112

1                   tities or investors, has devoted a  
2                   qualified investment or combination of  
3                   qualified investments of not less than  
4                   \$500,000 in total to the alien's  
5                   United States business entity; or

6                   “(bb)(AA) the alien has a signifi-  
7                   cant ownership interest in a United  
8                   States business entity that has cre-  
9                   ated no fewer than 5 qualified jobs;  
10                  and

11                  “(BB) during the 2-year period  
12                  ending on such date has generated not  
13                  less than \$750,000 in annual revenue  
14                  within the United States; and

15                  “(IV) no more than 2 other aliens  
16                  have received nonimmigrant status under  
17                  this section on the basis of an alien's own-  
18                  ership of such United States business enti-  
19                  ty;

20                  “(ii)(I) the alien is a qualified entre-  
21                  preneur;

22                  “(II) the alien maintained valid non-  
23                  immigrant status in the United States for  
24                  at least 3 years prior to the date of filing  
25                  an application for such status;



## 1113

1 “(III) the alien holds an advanced de-  
2 gree in a field of science, technology, engi-  
3 neering, or mathematics, approved by the  
4 Secretary; and

5 “(IV) during the 3-year period ending  
6 on the date the alien files an initial peti-  
7 tion for such status under this section—

8 “(aa)(AA) the alien has a signifi-  
9 cant ownership interest in a United  
10 States business entity that has cre-  
11 ated no fewer than 4 qualified jobs;  
12 and

13 “(BB) a qualified venture capi-  
14 talist, a qualified super angel investor,  
15 a qualified government entity, a quali-  
16 fied community development financial  
17 institution, qualified startup accel-  
18 erator, or such other entity or type of  
19 investors, as determined by the Sec-  
20 retary, or any combination of such en-  
21 tities or investors, has devoted a  
22 qualified investment or combination of  
23 qualified investments of not less than  
24 \$500,000 in total to the alien’s  
25 United States business entity; or

1114

1 “(bb)(AA) the alien has a signifi-  
2 cant ownership interest in a United  
3 States business entity that has cre-  
4 ated no fewer than 3 qualified jobs;  
5 and

6 “(BB) during the 2-year period  
7 ending on such date has generated not  
8 less than \$500,000 in annual revenue  
9 within the United States; and

10 “(V) no more than 3 other aliens have  
11 received nonimmigrant status under this  
12 section on the basis of an alien’s ownership  
13 of such United States business entity.

14 “(D) ATTESTATION.—The Secretary may  
15 require an alien seeking a visa under this para-  
16 graph to attest, under penalties of perjury, to  
17 the alien’s qualifications.”.

18 **SEC. 4803. ADMINISTRATION AND OVERSIGHT.**

19 (a) REGULATIONS.—Not later than 16 months after  
20 the date of the enactment of this Act, the Secretary, in  
21 consultation with the Secretary of Commerce, the Admin-  
22 istrator of the Small Business Administration, and other  
23 heads of other relevant Federal agencies and departments,  
24 shall promulgate regulations to carry out the amendments  
25 made by this subtitle. Such regulations shall ensure that

1 such amendments are implemented in a manner that is  
2 consistent with the protection of national security and pro-  
3 motion of United States economic growth, job creation,  
4 and competitiveness.

5 (b) MODIFICATION OF DOLLAR AMOUNTS.—

6 (1) IN GENERAL.—The Secretary may from  
7 time to time prescribe regulations increasing or de-  
8 creasing any dollar amount specified in section  
9 203(b)(6) of the Immigration and Nationality Act,  
10 as added by section 4802, section 101(a)(15)(X) of  
11 such Act, as added by section 4801, or section  
12 214(s), as added by section 4801.

13 (2) AUTOMATIC ADJUSTMENT.—Unless a dollar  
14 amount referred to in paragraph (1) is adjusted by  
15 the Secretary under paragraph (1), such dollar  
16 amount shall automatically adjust on January 1,  
17 2016, by the percentage change in the Consumer  
18 Price Index (CPI–U) during fiscal year 2015, and  
19 on every fifth subsequent January 1 by the percent-  
20 age change in the CPI–U during the previous 5 fis-  
21 cal years, for any petition filed to classify an alien  
22 under this paragraph on or after the date of each  
23 automatic adjustment.

24 (c) OTHER AUTHORITY.—The Secretary, in the Sec-  
25 retary’s unreviewable discretion, may deny or revoke the

1 approval of a petition seeking classification of an alien  
2 under paragraph (6) of section 203(b) of the Immigration  
3 and Nationality Act, as added by section 4802, or any  
4 other petition, application, or benefit based upon the pre-  
5 vious or concurrent filing or approval of a petition for clas-  
6 sification of an alien under such paragraph (6), if the Sec-  
7 retary determines, in the Secretary's sole and  
8 unreviewable discretion, that the approval or continuation  
9 of such petition, application, or benefit is contrary to the  
10 national interest of the United States or for other good  
11 cause.

12 (d) REPORTS.—Once every 3 years, the Secretary  
13 shall submit to Congress a report on this subtitle and the  
14 amendments made by this subtitle. Each such report shall  
15 include—

16 (1) the number and percentage of entrepreneurs  
17 able to meet thresholds for nonimmigrant renewal  
18 and adjustment to green card status under the  
19 amendments made by this subtitle;

20 (2) an analysis of the program's economic im-  
21 pact including job and revenue creation, increased  
22 investments and growth within business sectors and  
23 regions;

1           (3) a description and breakdown of types of  
2           businesses that entrepreneurs granted nonimmigrant  
3           or immigrant status are creating;

4           (4) for each report following the Secretary's ini-  
5           tial report submitted under this subsection, a de-  
6           scription of the percentage of the businesses initially  
7           created by the entrepreneurs granted immigrant and  
8           nonimmigrant status under this subtitle and the  
9           amendments made by this subtitle, that are still in  
10          operation; and

11          (5) any recommendations for improving the  
12          program established by this subtitle and the amend-  
13          ments made by this subtitle.

14 **SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE-**  
15 **GIONAL CENTER PROGRAM.**

16          (a) REPEAL.—Section 610 of the Departments of  
17 Commerce, Justice, and State, the Judiciary, and Related  
18 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
19 is repealed.

20          (b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C.  
21 1153(b)(5)) is amended by adding at the end the fol-  
22 lowing:

23                               “(E) REGIONAL CENTER PROGRAM.—

24                               “(i) IN GENERAL.—Visas under this  
25                               paragraph shall be made available to quali-

1118

1           fied immigrants participating in a program  
2           implementing this paragraph that involves  
3           a regional center in the United States,  
4           which has been designated by the Sec-  
5           retary of Homeland Security, in consulta-  
6           tion with the Secretary of Commerce, on  
7           the basis of a general proposal for the pro-  
8           motion of economic growth, including—

9                       “(I) increased export sales;

10                      “(II) improved regional produc-  
11                      tivity;

12                      “(III) job creation; or

13                      “(IV) increased domestic capital  
14                      investment.

15                      “(ii) ESTABLISHMENT OF A REGIONAL  
16           CENTER.—A regional center shall have ju-  
17           risdiction over a defined geographic area,  
18           which shall be described in the proposal  
19           and consistent with the purpose of concen-  
20           trating pooled investment in defined eco-  
21           nomic zones. The establishment of a re-  
22           gional center may be based on general pre-  
23           dictions, contained in the proposal, con-  
24           cerning—

1119

1 “(I) the kinds of commercial en-  
2 terprises that will receive investments  
3 from aliens;

4 “(II) the jobs that will be created  
5 directly or indirectly as a result of  
6 such investments; and

7 “(III) other positive economic ef-  
8 fects such investments will have.

9 “(iii) COMPLIANCE.—In determining  
10 compliance with subparagraph (A)(ii), the  
11 Secretary of Homeland Security shall per-  
12 mit aliens admitted under the program de-  
13 scribed in this subparagraph to establish  
14 reasonable methodologies for determining  
15 the number of jobs created by the pro-  
16 gram, including jobs estimated to have  
17 been created indirectly through—

18 “(I) revenues generated from in-  
19 creased exports, improved regional  
20 productivity, job creation; or

21 “(II) increased domestic capital  
22 investment resulting from the pro-  
23 gram, including jobs created outside  
24 of the geographic boundary of the re-  
25 gional center as a result of the immi-

## 1120

1 grant's investment in regional center-  
2 affiliated commercial enterprises.

3 “(iv) INDIRECT JOB CREATION.—The  
4 Secretary shall permit immigrants admit-  
5 ted under this paragraph to satisfy the re-  
6 quirements under subparagraph (A)(ii)  
7 with jobs that are estimated to be created  
8 indirectly through investment under this  
9 paragraph in accordance with this sub-  
10 paragraph.

11 “(F) PREAPPROVAL OF BUSINESS PLANS  
12 FOR REGIONAL CENTER INVESTMENTS.—

13 “(i) PETITION.—Before the filing of a  
14 petition under this subparagraph by an  
15 alien investor, a commercial enterprise af-  
16 filiated with a regional center may file a  
17 petition with the Secretary of Homeland  
18 Security to preapprove a particular invest-  
19 ment in the commercial enterprise, as pro-  
20 vided in—

21 “(I) a business plan for a specific  
22 capital investment project;

23 “(II) investment documents, such  
24 as subscription, investment, partner-  
25 ship, and operating agreements; and



## 1121

1                   “(III) a credible economic anal-  
2                   ysis regarding estimated job creation  
3                   that is based upon reasonable meth-  
4                   odologies.

5                   “(ii) PREAPPROVAL PROCEDURE.—  
6                   The Secretary shall establish a process to  
7                   facilitate the preapproval of business plans  
8                   under this subparagraph related to invest-  
9                   ment in a regional center commercial en-  
10                  terprise, which shall include an opportunity  
11                  for the applicant to address and cure any  
12                  deficiencies identified by the Secretary in  
13                  the applicant’s business plan, investment  
14                  documents, or statement regarding job cre-  
15                  ation prior to a final determination. The  
16                  Secretary shall impose a fee for the use of  
17                  the process described in this clause suffi-  
18                  cient to recover the costs of its administra-  
19                  tion.

20                  “(iii) EFFECT OF PREAPPROVAL OF  
21                  BUSINESS PLAN FOR INVESTMENT IN RE-  
22                  GIONAL CENTER COMMERCIAL ENTER-  
23                  PRISE.—The preapproval of a petition  
24                  under this subparagraph shall be binding  
25                  for purposes of the adjudication of peti-

1           tions filed under this subparagraph by im-  
2           migrants investing in the commercial en-  
3           terprise unless the Secretary determines  
4           that there is evidence of fraud, misrepre-  
5           sentation, criminal misuse, a threat to na-  
6           tional security, or other evidence affecting  
7           program eligibility that was not disclosed  
8           by the petitioner during the preapproval  
9           process.

10           “(iv) EXPEDITED PROCESSING OPTION  
11           FOR ALIEN INVESTOR PETITIONS AFFILI-  
12           ATED WITH PREAPPROVED BUSINESS  
13           PLANS.—The Secretary may establish a  
14           premium processing option for alien inves-  
15           tors who are investing in a commercial en-  
16           terprise that has received preapproval  
17           under this subparagraph and may impose  
18           a fee for the use of that option sufficient  
19           to recover all costs of the option.

20           “(v) CONSIDERATION OF CRIMINAL  
21           ACTIVITY IN ESTABLISHING ELIGIBILITY  
22           CRITERIA.—The Secretary shall consider  
23           the potential for fraud, misrepresentation,  
24           criminal misuse, and threats to national  
25           security in establishing eligibility criteria

1123

1                   for any program the Secretary may estab-  
2                   lish under this subparagraph.

3                   “(G)   REGIONAL    CENTER    FINANCIAL  
4                   STATEMENTS.—

5                   “(i) IN GENERAL.—Each regional cen-  
6                   ter designated under subparagraph (E)  
7                   shall annually submit, to the Director of  
8                   U.S. Citizenship and Immigration Services  
9                   (referred to in this subparagraph as the  
10                  ‘Director’), in a manner prescribed by the  
11                  Secretary of Homeland Security, financial  
12                  statements, including—

13                   “(I) an accounting of all foreign  
14                   investor money invested through the  
15                   regional center; and

16                   “(II) for each capital investment  
17                   project—

18                   “(aa) an accounting of the  
19                   aggregate capital invested  
20                   through the regional center or af-  
21                   filiated commercial enterprises by  
22                   immigrants under this para-  
23                   graph;

1124

1                   “(bb) a description of how  
2                   such funds are being used to exe-  
3                   cute the approved business plan;

4                   “(cc) evidence that 100 per-  
5                   cent of such investor funds have  
6                   been dedicated to the project;

7                   “(dd) detailed evidence of  
8                   the progress made toward the  
9                   completion of the project;

10                  “(ee) an accounting of the  
11                  aggregate direct and indirect jobs  
12                  created or preserved; and

13                  “(ff) a certification by the  
14                  regional center that such state-  
15                  ments are accurate.

16                  “(ii) AMENDMENT OF FINANCIAL  
17                  STATEMENTS.—If the Director determines  
18                  that a financial statement required under  
19                  clause (i) is deficient, the Director may re-  
20                  quire the regional center to amend or sup-  
21                  plement such financial statement.

22                  “(iii) SANCTIONS.—

23                  “(I) EFFECT OF VIOLATION.—If  
24                  the Director determines, after review-  
25                  ing the financial statements submitted

1 under clause (i), that a regional cen-  
2 ter, director, or other individual in-  
3 volved with a regional center (other  
4 than an alien investor) has violated  
5 any requirement under clause (i) or  
6 that the regional center is conducting  
7 itself in a manner inconsistent with its  
8 designation, the Director may sanc-  
9 tion the violating entity or individual  
10 under subclause (II).

11 “(II) AUTHORIZED SANCTIONS.—  
12 The Director shall establish a grad-  
13 uated set of sanctions for violations  
14 referred to in subclause (I), includ-  
15 ing—

16 “(aa) fines equal to not  
17 more than 5 percent of the total  
18 capital invested by immigrant in-  
19 vestors in the commercial enter-  
20 prise’s approved business plan;

21 “(bb) temporary suspension  
22 from participation in the pro-  
23 gram described in subparagraph  
24 (E), which may be lifted by the  
25 Director if the individual or enti-

1126

1 ty cures the alleged violation  
2 after being provided such an op-  
3 portunity by the Director;

4 “(cc) permanent bar from  
5 program participation for 1 or  
6 more individuals affiliated with  
7 the regional center; and

8 “(dd) termination of re-  
9 gional center status.

10 “(H) BONA FIDES OF PERSONS INVOLVED  
11 IN REGIONAL CENTERS.—

12 “(i) IN GENERAL.—No person shall be  
13 permitted by any regional center to be in-  
14 volved with the regional center as its prin-  
15 cipal, representative, administrator, owner,  
16 officer, board member, manager, executive,  
17 general partner, fiduciary, marketer, pro-  
18 moter, or other similar position of sub-  
19 stantive authority for the operations, man-  
20 agement or promotion of the regional cen-  
21 ter if the Secretary of Homeland Secu-  
22 rity—

23 “(I) determines such person has  
24 been found liable within the previous  
25 5 years for any criminal or civil viola-

1127

1                   tion of any law relating to fraud or  
2                   deceit, or at any time if such violation  
3                   involved a criminal conviction with a  
4                   term of imprisonment of at least 1  
5                   year or a criminal or civil violation of  
6                   any law or agency regulation in con-  
7                   nection with the purchase or sale of a  
8                   security; or

9                   “(II) knows or has reasonable  
10                  cause to believe that the person is en-  
11                  gaged in, has ever been engaged in, or  
12                  seeks to engage in any—

13                  “(aa) illicit trafficking in  
14                  any controlled substance;

15                  “(bb) activity relating to es-  
16                  pionage or sabotage;

17                  “(cc) activity related to  
18                  money laundering (as described  
19                  in section 1956 or 1957 of title  
20                  18, United States Code);

21                  “(dd) terrorist activity (as  
22                  defined in clauses (iii) and (iv) of  
23                  section 212(a)(3)(B));

24                  “(ee) human trafficking or  
25                  human rights offense; or

1128

1                   “(ff) violation of any stat-  
2                   ute, regulation, or Executive  
3                   Order regarding foreign financial  
4                   transactions or foreign asset con-  
5                   trol.

6                   “(ii) INFORMATION REQUIRED.—The  
7                   Secretary shall require such attestations  
8                   and information, including, the submission  
9                   of fingerprints to the Federal Bureau of  
10                  Investigation, and shall perform such  
11                  criminal record checks and other back-  
12                  ground checks with respect to a regional  
13                  center, and persons involved in a regional  
14                  center as described in clause (i), as the  
15                  Secretary considers appropriate to deter-  
16                  mine whether the regional center is in com-  
17                  pliance with clause (i). The Secretary may  
18                  require the information and attestations  
19                  described in this clause from such regional  
20                  center, and any person involved in the re-  
21                  gional center, at any time on or after the  
22                  date of the enactment of the Border Secu-  
23                  rity, Economic Opportunity, and Immigra-  
24                  tion Modernization Act.



1129

1                                   “(iii) TERMINATION.—The Secretary  
2                                   is authorized, in his or her unreviewable  
3                                   discretion, to terminate any regional center  
4                                   from the program under this paragraph if  
5                                   he or she determines that—

6 “(I) the regional center is in vio-  
7 lation of clause (i);

8 “(II) the regional center or any  
9 person involved with the regional cen-  
10 ter has provided any false attestation  
11 or information under clause (ii);

“(III) the regional center or any person involved with the regional center fails to provide an attestation or information requested by the Secretary under clause (ii); or

“(IV) the regional center or any person involved with the regional center is engaged in fraud, misrepresentation, criminal misuse, or threats to national security.

22 “(I) REGIONAL CENTER COMPLIANCE  
23 WITH SECURITIES LAWS.—

24 “(i) CERTIFICATION REQUIRED.—The  
25 Secretary of Homeland Security shall not

1 approve an application for regional center  
2 designation or regional center amendment  
3 that does not certify that the regional cen-  
4 ter and, to the best knowledge of the appli-  
5 cant, all parties to the regional center are  
6 in, and will maintain, compliance with the  
7 securities laws of the United States.

8 “(ii) TERMINATION OR SUSPEN-  
9 SION.—The Secretary shall terminate the  
10 designation of any regional center that  
11 does not provide the certification described  
12 in subclause (i) on an annual basis. In ad-  
13 dition to any other authority provided to  
14 the Secretary regarding the regional center  
15 program described in subparagraph (E),  
16 the Secretary may, in his or her  
17 unreviewable discretion, suspend or termi-  
18 nate the designation of any regional center  
19 if he or she determines that the regional  
20 center or any party to the regional cen-  
21 ter—

22 “(I) is permanently or tempo-  
23 rarily enjoined by order, judgment, or  
24 decree of any court of competent ju-

1131

1 jurisdiction in connection with the pur-  
2 chase or sale of a security;

3 “(II) is subject to any final order  
4 of the Securities and Exchange Com-  
5 mission that—

6 “(aa) bars such person from  
7 association with an entity regu-  
8 lated by the Securities and Ex-  
9 change Commission; or

10 “(bb) constitutes a final  
11 order based on violations in con-  
12 nection with the purchase or sale  
13 of a security; or

14 “(III) knowingly submitted or  
15 caused to be submitted a certification  
16 described in clause (i) that contained  
17 an untrue statement of a material fact  
18 or omitted to state a material fact  
19 necessary in order to make the state-  
20 ments made, in the light of the cir-  
21 cumstances under which they were  
22 made, not misleading.

23 “(iii) SAVINGS PROVISION.—Nothing  
24 in this subparagraph may be construed to  
25 impair or limit the authority of the Securi-

1                   ties and Exchange Commission under the  
2                   Federal securities laws.

3                   “(iv) DEFINED TERM.—For the pur-  
4                   pose of this subparagraph, the term ‘party  
5                   to the regional center’ shall include the re-  
6                   gional center, its agents, employees, and  
7                   attorneys, and any persons in active con-  
8                   cert or participation with the regional cen-  
9                   ter.

10                  “(J) DENIAL OR REVOCATION.—If the Sec-  
11                  retary of Homeland Security determines, in his  
12                  or her unreviewable discretion, that the ap-  
13                  proval of a petition, application, or benefit de-  
14                  scribed in this subparagraph is contrary to the  
15                  national interest of the United States for rea-  
16                  sons relating to fraud, misrepresentation, crimi-  
17                  nal misuse, or threats to national security, the  
18                  Secretary may deny or revoke the approval of—

19                         “(i) a petition seeking classification of  
20                         an alien as an alien investor under this  
21                         paragraph;

22                         “(ii) a petition to remove conditions  
23                         under section 216A before granting lawful  
24                         permanent resident status or any other pe-  
25                         tition, application, or benefit based upon

1           the previous or concurrent filing or ap-  
2           proval of a petition for classification of an  
3           alien under this paragraph; or  
4           “(iii) an application for designation as  
5           a regional center.”.

6       (c) ASSISTANCE BY THE SECRETARY OF COM-  
7       MERCE.—

8           (1) IN GENERAL.—The Secretary of Commerce,  
9       upon the request of the Secretary, shall provide con-  
10      sultation assistance for determining whether—

11           (A) a proposed regional center should be  
12      designated, terminated, or subject to other ad-  
13      judicative action; or

14           (B) a petitioner or applicant for a benefit  
15      under section 203(b)(5) of the Immigration and  
16      Nationality Act, as amended by subsection (b),  
17      has met the requirements under such paragraph  
18      with respect to job creation.

19       (2) RULEMAKING.—The Secretary and the Sec-  
20      retary of Commerce may each adopt such rules and  
21      regulations as are necessary to carry out the con-  
22      sultation process provided for in paragraph (1).

23       (3) SAVINGS PROVISION.—Nothing in this sub-  
24      section shall be construed to require consultation  
25      with the Secretary of Commerce to continue the des-

1       ignation of a regional center approved before the  
2       date of the enactment of this Act.

3       (d) EFFECTIVE DATE.—The amendments made by  
4 this section—

5           (1) shall be effective upon the enactment of this  
6       Act; and

7           (2) shall apply to—

8                (A) any application to designate a regional  
9                center, and any person involved with the re-  
10              gional center, that is pending or approved on or  
11              after the date of the enactment of this Act; and

12              (B) any regional center approved before  
13              the date of the enactment of this Act, on or  
14              after a delayed effective date that is 1 year  
15              after such date of enactment with respect to  
16              any person involved in the regional center on or  
17              after such delayed effective date.

18 **SEC. 4805. CONDITIONAL PERMANENT RESIDENT STATUS**  
19 **FOR CERTAIN EMPLOYMENT-BASED IMMI-**  
20 **GRANTS, SPOUSES, AND CHILDREN.**

21       (a) IN GENERAL.—Section 216A (8 U.S.C. 1186b)  
22 is amended to read as follows:

1 **“SEC. 216A. CONDITIONAL PERMANENT RESIDENT STATUS**  
2 **FOR CERTAIN EMPLOYMENT-BASED IMMI-**  
3 **GRANTS, SPOUSES, AND CHILDREN.**

4 “(a) IN GENERAL.—

5 “(1) CONDITIONAL BASIS FOR STATUS.—Not-  
6 withstanding any other provision of this Act, em-  
7 ployment-based immigrants (as defined in subsection  
8 (f) (1) or (2)), alien spouses, and alien children (as  
9 defined in subsection (f)(3)) shall be considered, at  
10 the time of obtaining the status of an alien lawfully  
11 admitted for permanent residence, to have obtained  
12 such status on a conditional basis subject to the pro-  
13 visions of this section.

14 “(2) NOTICE OF REQUIREMENTS.—

15 “(A) AT TIME OF OBTAINING PERMANENT  
16 RESIDENCE.—At the time an employment-based  
17 immigrant, alien spouse, or alien child obtains  
18 permanent resident status on a conditional  
19 basis under paragraph (1), the Secretary of  
20 Homeland Security shall provide for notice to  
21 the alien, spouse, or child respecting the provi-  
22 sions of this section and the requirements of  
23 subsection (c)(1) to have the conditional basis  
24 of such status removed.

25 “(B) AT TIME OF REQUIRED PETITION.—

26 In addition, the Secretary of Homeland Secu-

1           rity shall attempt to provide notice to an em-  
2           ployment-based immigrant, alien spouse, or  
3           alien child, at or about the beginning of the 90-  
4           day period described in subsection (d)(3), of the  
5           requirements of subsection (c)(1).

6           “(C) EFFECT OF FAILURE TO PROVIDE  
7           NOTICE.—The failure of the Secretary of  
8           Homeland Security to provide a notice under  
9           this paragraph shall not affect the enforcement  
10          of the provisions of this section with respect to  
11          an employment-based immigrant, alien spouse,  
12          or alien child.

13          “(b) TERMINATION OF STATUS IF FINDING THAT  
14          QUALIFYING EMPLOYMENT IMPROPER.—

15          “(1) ALIEN INVESTOR.—In the case of an alien  
16          investor with permanent resident status on a condi-  
17          tional basis under subsection (a), if the Secretary of  
18          Homeland Security determines, before the second  
19          anniversary of the alien’s obtaining the status of  
20          lawful admission for permanent residence, that—

21                  “(A) the investment in the commercial en-  
22                  terprise was intended as a means of evading the  
23                  immigration laws of the United States;



1           “(B)(i) the alien did not invest, or was not  
2           actively in the process of investing, the requisite  
3           capital; or

4           “(ii) the alien was not sustaining the ac-  
5           tions described in clause (i) throughout the pe-  
6           riod of the alien’s residence in the United  
7           States; or

8           “(C) subject to the exception in subsection  
9           (d)(4), the alien was otherwise not conforming  
10          to the requirements under section 203(b)(5),  
11          the Secretary shall so notify the alien investor and,  
12          subject to paragraph (3), shall terminate the perma-  
13          nent resident status of the alien (and the alien  
14          spouse and alien child) involved as of the date of the  
15          determination.

16          “(2) EMPLOYEE OF A FEDERAL NATIONAL SE-  
17          curity, science, and technology laboratory,  
18          center or agency.—In the case of an employee of  
19          a Federal national security, science, and technology  
20          laboratory, center, or agency (as defined pursuant to  
21          section 203(b)(2)(C)) with permanent resident sta-  
22          tus on a conditional basis under subsection (a), if  
23          the Secretary of Homeland Security, in consultation  
24          with the relevant employing department or agency,  
25          determines, before the first anniversary of the alien’s

1 obtaining the status of lawful admission for perma-  
2 nent residence, that—

3 “(A) the qualifying employment was in-  
4 tended as a means of evading the immigration  
5 laws of the United States;

6 “(B) the alien has not completed or is not  
7 likely to complete 12 months of qualifying con-  
8 tinuous employment; or

9 “(C) the alien did not otherwise conform  
10 with the requirements of section 203(b)(2),  
11 the Secretary shall so notify the alien involved and,  
12 subject to paragraph (3), shall terminate the perma-  
13 nent resident status of the alien (and the alien  
14 spouse and alien child) involved as of the date of the  
15 determination.

16 “(3) HEARING IN REMOVAL PROCEEDING.—Any  
17 alien whose permanent resident status is terminated  
18 under paragraph (1) or (2) may request a review of  
19 such determination in a proceeding to remove the  
20 alien. In such proceeding, the burden of proof shall  
21 be on the Secretary of Homeland Security to estab-  
22 lish, by a preponderance of the evidence, that a con-  
23 dition described in paragraph (1) or (2), as appro-  
24 priate, is met.

1       “(c) REQUIREMENTS OF TIMELY PETITION AND  
2 INTERVIEW FOR REMOVAL OF CONDITION.—

3               “(1) IN GENERAL.—

4                       “(A) PETITION AND INTERVIEW.—In order  
5 for the conditional basis established under sub-  
6 section (a) for an employment-based immigrant,  
7 alien spouse, or alien child to be removed—

8                               “(i) the employment-based immigrant  
9 shall submit to the Secretary of Homeland  
10 Security, during the period described in  
11 subsection (d)(3), a petition which requests  
12 the removal of such conditional basis and  
13 which states, under penalty of perjury, the  
14 facts and information described in para-  
15 graph (1) or (2) of subsection (d), as ap-  
16 propriate; and

17                               “(ii) in accordance with subsection  
18 (d)(3), the employment-based immigrant  
19 must appear for a personal interview be-  
20 fore an officer or employee of U.S. Citizen-  
21 ship and Immigration Services respecting  
22 such facts and information.

23                       “(B) SEPARATE PETITION NOT RE-  
24 QUIRED.—An alien spouse or alien child shall  
25 not be required to file separate petitions under

1           subparagraph (A)(i) if the employment-based  
2           immigrant’s petition includes such alien spouse  
3           or alien child.

4           “(C) EFFECT ON SPOUSE OR CHILD.—If  
5           the alien spouse or alien child obtains perma-  
6           nent residence on a conditional basis after the  
7           employment-based immigrant files a petition  
8           under subparagraph (A)(i)—

9                   “(i) the conditional basis of the per-  
10                  manent residence of the alien spouse or  
11                  alien child shall be removed upon approval  
12                  of the employment-based immigrant’s peti-  
13                  tion under this subsection;

14                  “(ii) the permanent residence of the  
15                  alien spouse or alien child shall be uncon-  
16                  ditional if—

17                          “(I) the employment-based immi-  
18                          grant’s petition is approved before the  
19                          date on which the spouse or child ob-  
20                          tains permanent residence; or

21                          “(II) the employment-based im-  
22                          migrant dies after the approval of a  
23                          petition under section 203(b)(5); and

24                          “(iii) the alien child shall not be  
25                          deemed ineligible for approval under sec-

1141

1                   tion 203(b)(5) or removal of conditions  
2                   under this section if the alien child reaches  
3                   21 years of age during—

4                   “(I) the pendency of the employ-  
5                   ment-based immigrant’s petition  
6                   under section 203(b)(5); or

7                   “(II) conditional residency under  
8                   such section.

9                   “(D) ADDITIONAL FEE.—Notwithstanding  
10                  any other provision under this section, the Sec-  
11                  retary may require the employment-based immi-  
12                  grant to pay an additional fee for a petition  
13                  filed under subparagraph (A)(i) that includes  
14                  the alien’s spouse and child or children.

15               “(2) TERMINATION OF PERMANENT RESIDENT  
16               STATUS FOR FAILURE TO FILE PETITION OR HAVE  
17               PERSONAL INTERVIEW.—

18               “(A) IN GENERAL.—In the case of an alien  
19               with permanent resident status on a conditional  
20               basis under subsection (a), if—

21               “(i) no petition is filed with respect to  
22               the alien in accordance with the provisions  
23               of paragraph (1)(A); or

24               “(ii) unless there is good cause shown,  
25               the employment-based immigrant fails to

1           appear at the interview described in para-  
2           graph (1)(B) (if required under subsection  
3           (d)(4)),  
4           the Secretary of Homeland Security shall termi-  
5           nate the permanent resident status of the alien  
6           (and the alien's spouse and children if it was  
7           obtained on a conditional basis under this sec-  
8           tion or section 216) as of the second anniver-  
9           sary of the alien's lawful admission for perma-  
10          nent residence.

11           “(B) HEARING IN REMOVAL PRO-  
12          CEEDING.—In any removal proceeding with re-  
13          spect to an alien whose permanent resident sta-  
14          tus is terminated under subparagraph (A), the  
15          burden of proof shall be on the alien to estab-  
16          lish compliance with the conditions of para-  
17          graphs (1)(A) and (1)(B).

18           “(3) DETERMINATION AFTER PETITION AND  
19          INTERVIEW.—

20           “(A) IN GENERAL.—If—

21           “(i) a petition is filed in accordance  
22           with the provisions of paragraph (1)(A);  
23           and

1 “(ii) the employment-based immigrant  
2 appears at any interview described in para-  
3 graph (1)(B),

4 the Secretary of Homeland Security shall make  
5 a determination, not later than 90 days after  
6 the date of such filing or interview (whichever  
7 is later), as to whether the facts and informa-  
8 tion described in paragraph (1) or (2) of sub-  
9 section (d), as appropriate, and alleged in the  
10 petition are true.

11 “(B) REMOVAL OF CONDITIONAL BASIS IF  
12 FAVORABLE DETERMINATION.—

13 “(i) HEADER.—If the Secretary of  
14 Homeland Security determines with re-  
15 spect to a petition filed by an alien inves-  
16 tor that such facts and information are  
17 true, the Secretary shall so notify the alien  
18 investor and shall remove the conditional  
19 basis of the alien’s status effective as of  
20 the second anniversary of the alien’s lawful  
21 admission for permanent residence.

22 “(ii) REMOVAL OF CONDITIONAL  
23 BASIS FOR EMPLOYEE OF A FEDERAL NA-  
24 TIONAL SECURITY, SCIENCE, AND TECH-  
25 NOLOGY LABORATORY, CENTER OR AGEN-

1                   CY.—If the Secretary of Homeland Secu-  
2                   rity determines with respect to a petition  
3                   filed by an employee of a Federal national  
4                   security, science, and technology labora-  
5                   tory, center, or agency that such facts and  
6                   information are true, the Secretary shall so  
7                   notify the alien and shall remove the condi-  
8                   tional basis of the alien's status effective  
9                   as of the first anniversary of the alien's  
10                  lawful admission for permanent residence.

11               “(C) TERMINATION IF ADVERSE DETER-  
12               MINATION.—If the Secretary of Homeland Se-  
13               curity determines that such facts and informa-  
14               tion are not true, the Secretary shall so notify  
15               the alien involved and, subject to subparagraph  
16               (D), shall terminate the permanent resident  
17               status of an employment-based immigrant, alien  
18               spouse, or alien child as of the date of the de-  
19               termination.

20               “(D) HEARING IN REMOVAL PRO-  
21               CEEDING.—Any alien whose permanent resident  
22               status is terminated under subparagraph (C)  
23               may request a review of such determination in  
24               a proceeding to remove the alien. In such pro-  
25               ceeding, the burden of proof shall be on the



1 Secretary of Homeland Security to establish, by  
2 a preponderance of the evidence, that the facts  
3 and information described in subsection (d)(1)  
4 and alleged in the petition are not true.

5 “(d) DETAILS OF PETITION AND INTERVIEW.—

6 “(1) CONTENTS OF PETITION BY ALIEN INVES-  
7 TOR.—Each petition filed by an alien investor under  
8 section (c)(1)(A) shall contain facts and information  
9 demonstrating that the alien—

10 “(A)(i) invested, or is actively in the proc-  
11 ess of investing, the requisite capital; and

12 “(ii) sustained the actions described in  
13 clause (i) throughout the period of the alien’s  
14 residence in the United States; and

15 “(B) except as provided in paragraph (4),  
16 is otherwise conforming to the requirements  
17 under section 203(b)(5).

18 “(2) CONTENTS OF PETITION BY EMPLOYEE OF  
19 A FEDERAL NATIONAL SECURITY, SCIENCE, AND  
20 TECHNOLOGY LABORATORY, CENTER, OR AGENCY.—  
21 Each petition under subsection (c)(1)(A) filed by an  
22 employee of a Federal national security, science, and  
23 technology laboratory, center, or agency shall con-  
24 tain facts and information demonstrating that the

1 alien is conforming to the requirements of section  
2 203(b)(2).

3 “(3) PERIOD FOR FILING PETITION.—

4 “(A) 90-DAY PERIOD BEFORE ANNIVER-  
5 SARY.—Except as provided in subparagraph  
6 (B), the petition under subsection (c)(1)(A)  
7 must be filed as follows:

8 “(i) In the case of an alien investor,  
9 during the 90-day period before the second  
10 anniversary of the alien’s lawful admission  
11 for permanent residence.

12 “(ii) In the case of an employee of a  
13 Federal national security, science, and  
14 technology laboratory, center, or agency,  
15 during the 90-day period before the first  
16 anniversary of the alien’s lawful admission  
17 for permanent residence.

18 “(B) LATE PETITIONS.—Such a petition  
19 may be considered if filed after such date, but  
20 only if the alien establishes to the satisfaction  
21 of the Secretary of Homeland Security good  
22 cause and extenuating circumstances for failure  
23 to file the petition during the period described  
24 in subparagraph (A).

1                   “(C) FILING OF PETITIONS DURING RE-  
2                   MOVAL.—In the case of an alien who is the sub-  
3                   ject of removal hearings as a result of failure  
4                   to file a petition on a timely basis in accordance  
5                   with subparagraph (A), the Secretary of Home-  
6                   land Security may stay such removal pro-  
7                   ceedings against an alien pending the filing of  
8                   the petition under subparagraph (B).

9                   “(4) PERSONAL INTERVIEW.—The interview  
10                  under subsection (c)(1)(B) shall be conducted within  
11                  90 days after the date of submitting a petition under  
12                  subsection (c)(1)(A) and at a local office of U.S.  
13                  Citizenship and Immigration Services, designated by  
14                  the Secretary of Homeland Security, which is con-  
15                  venient to the parties involved. The Secretary, in the  
16                  discretion of the Secretary, may waive the deadline  
17                  for such an interview or the requirement for such an  
18                  interview in such cases as may be appropriate.

19                  “(5) SPECIAL RULE FOR ALIEN INVESTORS IN  
20                  A REGIONAL CENTER.—Each petition under sub-  
21                  section (c)(1)(A) filed by an alien investor who in-  
22                  vests in accordance with section 203(b)(5)(E) shall  
23                  contain facts and information demonstrating that  
24                  the alien is complying with the requirements under  
25                  section 203(b)(5), except—

1                   “(A) the alien shall not be subject to the  
2                   requirements under section 203(b)(5)(A)(ii);  
3                   and

4                   “(B) the petition shall contain the most re-  
5                   cent financial statement filed by the regional  
6                   center in which the alien has invested in accord-  
7                   ance with section 203(b)(5)(G).

8           “(e) TREATMENT OF PERIOD FOR PURPOSES OF  
9   NATURALIZATION.—For purposes of title III, in the case  
10 of an alien who is in the United States as a lawful perma-  
11 nent resident on a conditional basis under this section, the  
12 alien shall be considered to have been admitted as an alien  
13 lawfully admitted for permanent residence and to be in  
14 the United States as an alien lawfully admitted to the  
15 United States for permanent residence, if the alien has  
16 had the conditional basis removed pursuant to this section.

17           “(f) FRAUD, MISREPRESENTATION, CRIMINAL MIS-  
18 USE, OR THREATS TO THE PUBLIC SAFETY OR NATIONAL  
19 SECURITY.—If the Secretary of Homeland Security deter-  
20 mines, in his or her sole and unreviewable discretion, that  
21 the conditional permanent resident status granted to an  
22 employment-based immigrant under subsection (a), or to  
23 an alien researcher described in section 203(b)(2)(A)(ii)  
24 is contrary to the national interest of the United States  
25 for reasons relating to fraud, misrepresentation, criminal

1 misuse, or threats to national security, the Secretary  
2 shall—

3 “(1) notify the immigrant involved of such de-  
4 termination; and

5 “(2) terminate the permanent resident status of  
6 the immigrant involved (and the alien spouse and  
7 alien children of such immigrant) as of the date of  
8 such determination.

9 “(g) DEFINITIONS.—In this section:

10 “(1) The term ‘alien investor’ means an alien  
11 who obtains the status of an alien lawfully admitted  
12 for permanent residence (whether on a conditional  
13 basis or otherwise) under section 203(b)(5).

14 “(2) The term ‘alien spouse’ and the term ‘alien  
15 child’ mean an alien who obtains the status of an  
16 alien lawfully admitted for permanent residence  
17 (whether on a conditional basis or otherwise) by vir-  
18 tue of being the spouse or child, respectively, of an  
19 alien investor or an employee of a Federal national  
20 security, science, and technology laboratory, center,  
21 or agency.

22 “(3) The term ‘commercial enterprise’ includes  
23 a limited partnership.

24 “(4) The term ‘employment-based immigrant’  
25 means an alien described in paragraph (1) or (5).

1           “(5) The term ‘employee of a Federal national  
2           security, science, and technology laboratory, center,  
3           or agency’ means an alien who obtains the status of  
4           an alien lawfully admitted for permanent residence  
5           (whether on a conditional basis or otherwise) under  
6           section 203(b)(2)(A)(ii).”.

7           (b) CONFORMING AMENDMENT.—Section 216(e) (8  
8           U.S.C. 1186a(e)) is amended by inserting before the pe-  
9           riod at the end the following: “, if the alien has had the  
10          conditional basis removed pursuant to this section”.

11          (c) CLERICAL AMENDMENT.—The table of contents  
12          is amended by striking the item relating to section 216A  
13          and inserting the following:

          “Sec. 216A. Conditional permanent resident status for certain employment-  
          based immigrants, spouses, and children.”.

14       **SEC. 4806. EB-5 VISA REFORMS.**

15          (a) ALIENS NOT SUBJECT TO DIRECT NUMERICAL  
16          LIMITATION.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)),  
17          as amended by sections 2103(c)(2), 2212(d)(2), 2307(b),  
18          and 2402, is further amended by adding at the end the  
19          following:

20               “(P) Aliens who are the spouse or a child of an  
21          alien admitted as an employment-based immigrant  
22          under section 203(b)(5).”.

23          (b) TECHNICAL AMENDMENT.—Section 203(b)(5), as  
24          amended by this Act, is further amended by striking “At-

## 1151

1 torney General” each place it appears and inserting “Sec-  
2 retary of Homeland Security”.

3 (c) TARGETED EMPLOYMENT AREAS.—

4 (1) IN GENERAL.—Section 203(b)(5)(B) (8  
5 U.S.C. 1153(b)(5)(B)) is amended to read as fol-  
6 lows:

7 “(B) SET-ASIDE FOR TARGETED EMPLOY-  
8 MENT AREAS.—

9 “(i) IN GENERAL.—Not fewer than  
10 5,000 of the visas made available under  
11 this paragraph in each fiscal year shall be  
12 reserved for qualified immigrants who in-  
13 vest in a new commercial enterprise de-  
14 scribed in subparagraph (A), which—

15 “(I) is investing such capital in a  
16 targeted employment area; and

17 “(II) will create employment in  
18 such targeted employment area.

19 “(ii) DURATION OF HIGH UNEMPLOY-  
20 MENT AND POVERTY AREA DESIGNA-  
21 TION.—A designation of a high unemploy-  
22 ment or poverty area as a targeted employ-  
23 ment area shall be valid for 5 years and  
24 may be renewed for additional 5-year peri-  
25 ods if the area continues to meet the defi-

1                   nition of a high unemployment or poverty  
2                   area. An investor who has made the re-  
3                   quired amount of investment in such a tar-  
4                   geted employment area during its period of  
5                   designation shall not be required to in-  
6                   crease the amount of investment based  
7                   upon expiration of the designation.”.

8           (d) ADJUSTMENT OF MINIMUM EB-5 INVESTMENT  
9 AMOUNT.—Section     203(b)(5)(C)(i)     (8     U.S.C.  
10 1153(b)(5)(C)(i)) is amended—

11           (1) by striking “The Attorney General” and in-  
12           serting “The Secretary of Commerce”;

13           (2) by striking “Secretary of State” and insert-  
14           ing “Secretary of Homeland Security”; and

15           (3) by adding at the end the following: “Unless  
16           adjusted by the Secretary of Commerce, the amount  
17           specified in this clause shall automatically adjust, on  
18           January 1, 2016, by the percentage change in the  
19           Consumer Price Index (CPI-U) during fiscal year  
20           2015, and on every fifth subsequent January 1 by  
21           the cumulative percentage change in the CPI-U dur-  
22           ing the previous 5 fiscal years, for any petition filed  
23           to classify an alien under this paragraph on or after  
24           the date of each automatic adjustment.”.

25           (e) DEFINITIONS.—



## 1153

1 (1) IN GENERAL.—Section 203(b)(5) (8 U.S.C.  
2 1153(b)(5)), as amended by subsections (b) and (c)  
3 and section 4804, is further amended—

4 (A) by striking subparagraph (D) and in-  
5 serting following:

6 “(D) CALCULATION OF FULL-TIME EM-  
7 PLOYMENT.—Job creation under this paragraph  
8 may consist of employment measured in full-  
9 time equivalents, such as intermittent or sea-  
10 sonal employment opportunities and construc-  
11 tion jobs. A full-time employment position is  
12 not a requirement for indirect job creation.”;  
13 and

14 (B) by adding at the end the following:

15 “(K) DEFINITIONS.—In this paragraph:

16 “(i) The term ‘capital’ means all real,  
17 personal, or mixed assets, whether tangible  
18 or intangible, owned or controlled by the  
19 investor, or held in trust for the benefit of  
20 the investor, to which the investor has un-  
21 restricted access, which shall be valued at  
22 fair market value in United States dollars,  
23 in accordance with Generally Accepted Ac-  
24 counting Principles, at the time it is in-  
25 vested under this paragraph.

1           “(ii) The term ‘full-time employment’  
2           means employment in a position that re-  
3           quires at least 35 hours of service per  
4           week, regardless of how many employees  
5           fill the position.

6           “(iii) The term ‘high unemployment  
7           and poverty area’ means—

8                   “(I) an area consisting of a cen-  
9                   sus tract or contiguous census tracts  
10                  that has an unemployment rate that  
11                  is at least 150 percent of the national  
12                  average unemployment rate and in-  
13                  cludes at least 1 census tract with 20  
14                  percent of its residents living below  
15                  the poverty level as determined by the  
16                  Bureau of the Census; or

17                  “(II) an area that is within the  
18                  boundaries established for purposes of  
19                  a Federal or State economic develop-  
20                  ment incentive program, including  
21                  areas defined as Enterprise Zones,  
22                  Renewal Communities, Promise  
23                  Zones, and Empowerment Zones.

24           “(iv) The term ‘rural area’ means—

1155

1 “(I) any area other than an area  
2 within a metropolitan statistical area  
3 or within the outer boundary of any  
4 city or town having a population of  
5 20,000 or more (based on the most  
6 recent decennial census of the United  
7 States); or

8 “(II) any city or town having a  
9 population of fewer than 20,000  
10 (based on the most recent decennial  
11 census of the United States) that is  
12 located within a State having a popu-  
13 lation of fewer than 1,500,000 (based  
14 on the most recent decennial census of  
15 the United States).

16 “(v) The term ‘targeted employment  
17 area’ means a rural area or a high unem-  
18 ployment and poverty area.”.

19 (2) EFFECTIVE DATE.—The amendment made  
20 by paragraph (1) shall apply to any application for  
21 a visa under section 203(b)(5) of the Immigration  
22 and Nationality Act that is filed on or after the date  
23 that is 1 year after the date of the enactment of this  
24 Act.

## 1156

1 (f) AGE DETERMINATION FOR CHILDREN OF ALIEN  
2 INVESTORS.—Section 203(h) (8 U.S.C. 1153(h)) is  
3 amended by adding at the end the following:

4 “(5) AGE DETERMINATION FOR CHILDREN OF  
5 ALIEN INVESTORS.—An alien admitted under sub-  
6 section (d) as a lawful permanent resident on a con-  
7 ditional basis as the child of an alien lawfully admit-  
8 ted for permanent residence under subsection (b)(5),  
9 whose lawful permanent resident status on a condi-  
10 tional basis is terminated under section 216A, shall  
11 continue to be considered a child of the principal  
12 alien for the purpose of a subsequent immigrant pe-  
13 tition by such alien under subsection (b)(5) if the  
14 alien remains unmarried and the subsequent petition  
15 is filed by the principal alien not later than 1 year  
16 after the termination of conditional lawful perma-  
17 nent resident status. No alien shall be considered a  
18 child under this paragraph with respect to more  
19 than 1 petition filed after the alien’s 21st birth-  
20 day.”.

21 (g) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
22 EMPLOYEES ADMINISTERING THE EB-5 PROGRAM.—The  
23 Secretary may establish, fix the compensation of, and ap-  
24 point individuals to, designated critical administrative,  
25 technical, and professional positions needed to administer

1 sections 203(b)(5) and 216A of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1153(b)(5) and 1186b).

3 (h) DELEGATION OF CERTAIN EB-5 AUTHORITY.—

4 (1) IN GENERAL.—The Secretary of Homeland  
5 Security may delegate to the Secretary of Commerce  
6 authority and responsibility for determinations  
7 under sections 203(b)(5) and 216A (with respect to  
8 alien entrepreneurs) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1153(b)(5) and 1186a), includ-  
10 ing determining whether an alien has met employ-  
11 ment creation requirements.

12 (2) REGULATIONS.—The Secretary of Home-  
13 land Security and the Secretary of Commerce may  
14 each adopt such rules and regulations as are nec-  
15 essary to carry out the delegation authorized under  
16 paragraph (1), including regulations governing the  
17 eligibility criteria for obtaining benefits pursuant to  
18 the amendments made by this section.

19 (3) USE OF FEES.—Adjudication fees described  
20 in section 286(m) of the Immigration and Nation-  
21 ality Act (8 U.S.C. 1356(m)) shall remain available  
22 until expended to reimburse the Secretary of Com-  
23 merce for the costs of any determinations made by  
24 the Secretary of Commerce under paragraph (1).

1 (i) CONCURRENT FILING OF EB-5 PETITIONS AND  
2 APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
3 245 (8 U.S.C. 1255), as amended by section 4237(b), is  
4 further amended—

5 (1) in subsection (k), in the matter preceding  
6 paragraph (1), by striking “or (3)” and inserting  
7 “(3), (5), or (7)”; and

8 (2) by adding at the end the following:

9 “(o) At the time a petition is filed for classification  
10 under section 203(b)(5), if the approval of such petition  
11 would make a visa immediately available to the alien bene-  
12 ficiary, the alien beneficiary’s application for adjustment  
13 of status under this section shall be considered to be prop-  
14 erly filed whether the application is submitted concur-  
15 rently with, or subsequent to, the visa petition.”.

16 **SEC. 4807. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) FUNDING.—There are authorized to be appro-  
18 priated from the Trust Fund established under section  
19 6(a) such sums as may be necessary to carry out sections  
20 1110, 2101, 2104, 2212, 2213, 2221, 2232, 3301, 3501,  
21 3502, 3503, 3504, 3505, 3506, 3605, 3610, 4221, and  
22 4401 of this Act.

23 (b) AVAILABILITY OF FUNDS.—Amounts appro-  
24 priated pursuant to this section shall remain available  
25 until expended unless otherwise specified in this Act.

1     **Subtitle I—Student and Exchange**  
2                     **Visitor Programs**

3     **SEC. 4901. SHORT TITLE.**

4             This subtitle may be cited as the “Student Visa In-  
5     tegrity Act”.

6     **SEC. 4902. SEVIS AND SEVP DEFINED.**

7             In this subtitle:

8                 (1) SEVIS.—The term “SEVIS” means the  
9             Student and Exchange Visitor Information System  
10            of the Department of Homeland Security.

11                (2) SEVP.—The term “SEVP” means the Stu-  
12            dent and Exchange Visitor Program of the Depart-  
13            ment of Homeland Security.

14     **SEC. 4903. INCREASED CRIMINAL PENALTIES.**

15             Section 1546(a) of title 18, United States Code, is  
16     amended by striking “10 years” and inserting “15 years  
17     (if the offense was committed by an owner, official, em-  
18     ployee, or agent of an educational institution with respect  
19     to such institution’s participation in the Student and Ex-  
20     change Visitor Program), 10 years”.

21     **SEC. 4904. ACCREDITATION REQUIREMENT.**

22             Section 101(a)(52) (8 U.S.C. 1101(a)(52)) is amend-  
23     ed to read as follows:

24             “(52) Except as provided in section 214(m)(4), the  
25     term ‘accredited college, university, or language training

1 program’ means a college, university, or language training  
2 program that is accredited by an accrediting agency recog-  
3 nized by the Secretary of Education.”.

4 **SEC. 4905. OTHER ACADEMIC INSTITUTIONS.**

5 Section 214(m) (8 U.S.C. 1184(m)) is amended by  
6 adding at the end the following:

7 “(3) The Secretary of Homeland Security shall re-  
8 quire accreditation of an academic institution (except for  
9 seminaries or other religious institutions) for purposes of  
10 section 101(a)(15)(F) if—

11 “(A) that institution is not already required to  
12 be accredited under section 101(a)(15)(F)(i); and

13 “(B) an appropriate accrediting agency recog-  
14 nized by the Secretary of Education is able to pro-  
15 vide such accreditation.

16 “(4) The Secretary of Homeland Security, in the Sec-  
17 retary’s discretion, may waive the accreditation require-  
18 ment in section 101(a)(15)(F)(i) with respect to an ac-  
19 credited college, university, or language training program  
20 if the academic institution—

21 “(A) is otherwise in compliance with the re-  
22 quirements of such section; and

23 “(B) is, on the date of the enactment of the Il-  
24 legal Immigration Reform and Immigrant Responsi-  
25 bility Act of 1996, a candidate for accreditation or,



1 after such date, has been a candidate for accredita-  
2 tion for at least 1 year and continues to progress to-  
3 ward accreditation by an accreditation agency recog-  
4 nized by the Secretary of Education.”.

5 **SEC. 4906. PENALTIES FOR FAILURE TO COMPLY WITH**  
6 **SEVIS REPORTING REQUIREMENTS.**

7 Section 641 of the Illegal Immigration Reform and  
8 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is  
9 amended—

10 (1) in subsection (c)(1)—

11 (A) by striking “institution,” each place it  
12 appears and inserting “institution,”; and

13 (B) in subparagraph (D), by striking  
14 “and” at the end;

15 (2) in subsection (d)(2), by striking “fails to  
16 provide the specified information” and all that fol-  
17 lows and inserting “does not comply with the report-  
18 ing requirements set forth in this section, the Sec-  
19 retary of Homeland Security may—

20 “(A) impose a monetary fine on such insti-  
21 tution in an amount to be determined by the  
22 Secretary; and

23 “(B) suspend the authority of such institu-  
24 tion to issue a Form I-20 to any alien.”.

1   **SEC. 4907. VISA FRAUD.**

2           (a) IMMEDIATE WITHDRAWAL OF SEVP CERTIFI-  
3   CATION.—Section 641(d) of the Illegal Immigration Re-  
4   form and Immigrant Responsibility Act of 1996 (8 U.S.C.  
5   1372(d)) is amended—

6           (1) in paragraph (1)(A), by striking “institu-  
7   tion,” and inserting “institution,”; and

8           (2) by adding at the end the following:

9           “(3) EFFECT OF REASONABLE SUSPICION OF  
10   FRAUD.—If the Secretary of Homeland Security has  
11   reasonable suspicion that an owner of, or a des-  
12   ignated school official at, an approved institution of  
13   higher education, an other approved educational in-  
14   stitution, or a designated exchange visitor program  
15   has committed fraud or attempted to commit fraud  
16   relating to any aspect of the Student and Exchange  
17   Visitor Program, or if such owner or designated  
18   school official is indicted for such fraud, the Sec-  
19   retary may immediately—

20           “(A) suspend such certification without  
21   prior notification; and

22           “(B) suspend such official’s or such  
23   school’s access to the Student and Exchange  
24   Visitor Information System (SEVIS).”.

25           (b) EFFECT OF CONVICTION FOR VISA FRAUD.—Sec-  
26   tion 641(d) of the Illegal Immigration Reform and Immi-

1 grant Responsibility Act of 1996, as amended by sub-  
2 section (a), is further amended by adding at the end the  
3 following:

4           “(5) PERMANENT DISQUALIFICATION FOR  
5 FRAUD.—A designated school official at, or an owner  
6 of, an approved institution of higher education, an  
7 other approved educational institution, or a des-  
8 ignated exchange visitor program who is convicted  
9 for fraud relating to any aspect of the Student and  
10 Exchange Visitor Program shall be permanently dis-  
11 qualified from filing future petitions and from hav-  
12 ing an ownership interest or a management role (in-  
13 cluding serving as a principal, owner, officer, board  
14 member, general partner, designated school official,  
15 or any other position of substantive authority for the  
16 operations or management of the institution) in any  
17 United States educational institution that enrolls  
18 nonimmigrant alien students described in subpara-  
19 graph (F) or (M) of section 101(a)(15) of the Immi-  
20 gration and Nationality Act (8 U.S.C.  
21 1101(a)(15)).”.

22 **SEC. 4908. BACKGROUND CHECKS.**

23       (a) IN GENERAL.—Section 641(d) of the Illegal Im-  
24 migration Reform and Immigrant Responsibility Act of  
25 1996 (8 U.S.C. 1372(d)), as amended by section 4907 of

1 this Act, is further amended by adding at the end the fol-  
2 lowing:

3 “(6) BACKGROUND CHECK REQUIREMENT.—

4 “(A) IN GENERAL.—An individual may not  
5 serve as a designated school official or be grant-  
6 ed access to SEVIS unless the individual is a  
7 national of the United States or an alien law-  
8 fully admitted for permanent residence and dur-  
9 ing the most recent 3-year period—

10 “(i) the Secretary of Homeland Secu-  
11 rity has—

12 “(I) conducted a thorough back-  
13 ground check on the individual, in-  
14 cluding a review of the individual’s  
15 criminal and sex offender history and  
16 the verification of the individual’s im-  
17 migration status; and

18 “(II) determined that the indi-  
19 vidual—

20 “(aa) has not been convicted  
21 of any violation of United States  
22 immigration law; and

23 “(bb) is not a risk to the na-  
24 tional security of the United  
25 States; and

1                   “(ii) the individual has successfully  
2                   completed an on-line training course on  
3                   SEVP and SEVIS, which has been devel-  
4                   oped by the Secretary.

5                   “(B) INTERIM DESIGNATED SCHOOL OFFI-  
6                   CIAL.—

7                   “(i) IN GENERAL.—An individual may  
8                   serve as an interim designated school offi-  
9                   cial during the period that the Secretary is  
10                  conducting the background check required  
11                  by subparagraph (A)(i)(I).

12                  “(ii) REVIEWS BY THE SECRETARY.—  
13                  If an individual serving as an interim des-  
14                  ignated school official under clause (i) does  
15                  not successfully complete the background  
16                  check required by subparagraph (A)(i)(I),  
17                  the Secretary shall review each Form I-20  
18                  issued by such interim designated school  
19                  official.

20                  “(7) FEE.—The Secretary is authorized to col-  
21                  lect a fee from an approved school for each back-  
22                  ground check conducted under paragraph (6)(A)(i).  
23                  The amount of such fee shall be equal to the average  
24                  amount expended by the Secretary to conduct such  
25                  background checks.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the date that is 1 year  
3 after the date of the enactment of this Act.

4 **SEC. 4909. REVOCATION OF AUTHORITY TO ISSUE FORM I-**  
5 **20 OF FLIGHT SCHOOLS NOT CERTIFIED BY**  
6 **THE FEDERAL AVIATION ADMINISTRATION.**

7 Immediately upon the enactment of this Act, the Sec-  
8 retary shall prohibit any flight school in the United States  
9 from accessing SEVIS or issuing a Form I-20 to an alien  
10 seeking a student visa pursuant to subparagraph (F)(i)  
11 or (M)(i) of section 101(a)(15) of the Immigration and  
12 Nationality Act (8 U.S.C. 1101(a)(15)) if the flight school  
13 has not been certified to the satisfaction of the Secretary  
14 and by the Federal Aviation Administration pursuant to  
15 part 141 or part 142 of title 14, Code of Federal Regula-  
16 tions (or similar successor regulations).

17 **SEC. 4910. REVOCATION OF ACCREDITATION.**

18 At the time an accrediting agency or association is  
19 required to notify the Secretary of Education and the ap-  
20 propriate State licensing or authorizing agency of the final  
21 denial, withdrawal, suspension, or termination of accredi-  
22 tation of an institution pursuant to section 496 of the  
23 Higher Education Act of 1965 (20 U.S.C. 1099b), such  
24 accrediting agency or association shall notify the Secretary  
25 of Homeland Security of such determination and the Sec-

1   retary of Homeland Security shall immediately withdraw  
2   the school from the SEVP and prohibit the school from  
3   accessing SEVIS.

4   **SEC. 4911. REPORT ON RISK ASSESSMENT.**

5       Not later than 180 days after the date of the enact-  
6   ment of this Act, the Secretary shall submit to the Com-  
7   mittee on the Judiciary of the Senate and the Committee  
8   on the Judiciary of the House of Representatives a report  
9   that contains the risk assessment strategy that will be em-  
10  ployed by the Secretary to identify, investigate, and take  
11  appropriate action against schools and school officials that  
12  are facilitating the issuance of Form I-20 and the mainte-  
13  nance of student visa status in violation of the immigra-  
14  tion laws of the United States.

15  **SEC. 4912. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

16       Not later than 180 days after the date of the enact-  
17  ment of this Act, the Secretary shall submit to the Com-  
18  mittee on the Judiciary of the Senate and the Committee  
19  on the Judiciary of the House of Representatives a report  
20  that describes—

- 21           (1) the process in place to identify and assess  
22       risks in the SEVP;  
23           (2) a risk assessment process to allocate  
24       SEVP's resources based on risk;

1           (3) the procedures in place for consistently en-  
2           suring a school's eligibility, including consistently  
3           verifying in lieu of letters;

4           (4) how SEVP identified and addressed missing  
5           school case files;

6           (5) a plan to develop and implement a process  
7           to monitor State licensing and accreditation status  
8           of all SEVP-certified schools;

9           (6) whether all flight schools that have not been  
10          certified to the satisfaction of the Secretary and by  
11          the Federal Aviation Administration have been re-  
12          moved from the program and have been restricted  
13          from accessing SEVIS;

14          (7) the standard operating procedures that gov-  
15          ern coordination among SEVP, Counterterrorism  
16          and Criminal Exploitation Unit, and U.S. Immigra-  
17          tion and Customs Enforcement field offices; and

18          (8) the established criteria for referring cases of  
19          a potentially criminal nature from SEVP to the  
20          counterterrorism and intelligence community.

21   **SEC. 4913. IMPLEMENTATION OF SEVIS II.**

22          Not later than 2 years after the date of the enact-  
23          ment of this Act, the Secretary shall complete the deploy-  
24          ment of both phases of the second generation Student and



1 Exchange Visitor Information System (commonly known  
2 as “SEVIS II”).

## 3 **TITLE V—JOBS FOR YOUTH**

### 4 **SEC. 5101. DEFINITIONS.**

5 In this title:

6 (1) CHIEF ELECTED OFFICIAL.—The term  
7 “chief elected official” means the chief elected execu-  
8 tive officer of a unit of local government in a local  
9 workforce investment area or in the case in which  
10 such an area includes more than one unit of general  
11 government, the individuals designated under an  
12 agreement described in section 117(c)(1)(B) of the  
13 Workforce Investment Act of 1998 (29 U.S.C.  
14 2832(c)(1)(B)).

15 (2) LOCAL WORKFORCE INVESTMENT AREA.—  
16 The term “local workforce investment area” means  
17 such area designated under section 116 of the Work-  
18 force Investment Act of 1998 (29 U.S.C. 2831).

19 (3) LOCAL WORKFORCE INVESTMENT BOARD.—  
20 The term “local workforce investment board” means  
21 such board established under section 117 of the  
22 Workforce Investment Act of 1998 (29 U.S.C.  
23 2832).

24 (4) LOW-INCOME YOUTH.—The term “low-in-  
25 come youth” means an individual who—

1 (A) is not younger than 16 but is younger  
2 than 25;

3 (B) meets the definition of a low-income  
4 individual provided in section 101(25) of the  
5 Workforce Investment Act of 1998 (29 U.S.C.  
6 2801(25)), except that States and local work-  
7 force investment areas, subject to approval in  
8 the applicable State plans and local plans, may  
9 increase the income level specified in subpara-  
10 graph (B)(i) of such section to an amount not  
11 in excess of 200 percent of the poverty line for  
12 purposes of determining eligibility for participa-  
13 tion in activities under section 5103; and

14 (C) is in one or more of the categories  
15 specified in section 101(13)(C) of the Work-  
16 force Investment Act of 1998 (29 U.S.C.  
17 2801(13)(C)).

18 (5) POVERTY LINE.—The term “poverty line”  
19 means a poverty line as defined in section 673 of the  
20 Community Services Block Grant Act (42 U.S.C.  
21 9902), applicable to a family of the size involved.

22 (6) STATE.—The term “State” means each of  
23 the several States of the United States, and the Dis-  
24 trict of Columbia.

1171

1 **SEC. 5102. ESTABLISHMENT OF YOUTH JOBS FUND.**

2 (a) ESTABLISHMENT.—There is established in the  
3 Treasury of the United States an account that shall be  
4 known as the Youth Jobs Fund (referred to in this title  
5 as “the Fund”).

6 (b) DEPOSITS INTO THE FUND.—Out of any  
7 amounts in the Treasury not otherwise appropriated, there  
8 is appropriated \$1,500,000,000 for fiscal year 2014,  
9 which shall be paid to the Fund, to be used by the Sec-  
10 retary of Labor to carry out this title.

11 (c) AVAILABILITY OF FUNDS.—Of the amounts de-  
12 posited into the Fund under subsection (b), the Secretary  
13 of Labor shall allocate \$1,500,000,000 to provide summer  
14 and year-round employment opportunities to low-income  
15 youth in accordance with section 5103 .

16 (d) PERIOD OF AVAILABILITY.—The amounts appro-  
17 priated under this title shall be available for obligation by  
18 the Secretary of Labor until December 31, 2014, and shall  
19 be available for expenditure by grantees (including sub-  
20 grantees) until September 30, 2015.

21 **SEC. 5103. SUMMER EMPLOYMENT AND YEAR-ROUND EM-**  
22 **PLOYMENT OPPORTUNITIES FOR LOW-IN-**  
23 **COME YOUTH.**

24 (a) IN GENERAL.—From the funds available under  
25 section 5102(c), the Secretary of Labor shall make an al-  
26 lotment under subsection (c) to each State that has a

1 modification to a State plan approved under section 112  
2 of the Workforce Investment Act of 1998 (29 U.S.C.  
3 2822) (referred to in this section as a “State plan modi-  
4 fication”) (or other State request for funds specified in  
5 guidance under subsection (b)) approved under subsection  
6 (d) and recipient under section 166(c) of the Workforce  
7 Investment Act of 1998 (29 U.S.C. 2911(c)) (referred to  
8 in this section as a “Native American grantee”) that  
9 meets the requirements of this section, for the purpose of  
10 providing summer employment and year-round employ-  
11 ment opportunities to low-income youth.

12 (b) GUIDANCE AND APPLICATION OF REQUIRE-  
13 MENTS.—

14 (1) GUIDANCE.—Not later than 20 days after  
15 the date of enactment of this Act, the Secretary of  
16 Labor shall issue guidance regarding the implemen-  
17 tation of this section.

18 (2) PROCEDURES.—Such guidance shall, con-  
19 sistent with this section, include procedures for—

20 (A) the submission and approval of State  
21 plan modifications, for such other forms of re-  
22 quests for funds by the State as may be identi-  
23 fied in such guidance, for modifications to local  
24 plans approved under section 118 of the Work-  
25 force Investment Act of 1998 (29 U.S.C. 2833)

1 (referred to individually in this section as a  
2 “local plan modification”), or for such other  
3 forms of requests for funds by local workforce  
4 investment areas as may be identified in such  
5 guidance, that promote the expeditious and ef-  
6 fective implementation of the activities author-  
7 ized under this section; and

8 (B) the allotment and allocation of funds,  
9 including reallotment and reallocation of such  
10 funds, that promote such implementation.

11 (3) REQUIREMENTS.—Except as otherwise pro-  
12 vided in the guidance described in paragraph (1)  
13 and in this section and other provisions of this title,  
14 the funds provided for activities under this section  
15 shall be administered in accordance with the provi-  
16 sions of subtitles B and E of title I of the Workforce  
17 Investment Act of 1998 (29 U.S.C. 2811 et seq.,  
18 2911 et seq.) relating to youth activities.

19 (c) STATE ALLOTMENTS.—

20 (1) IN GENERAL.—Using the funds described in  
21 subsection (a), the Secretary of Labor shall allot to  
22 each State the total of the amounts assigned to the  
23 State under subparagraphs (A) and (B) of para-  
24 graph (2).

25 (2) ASSIGNMENTS TO STATES.—

1 (A) MINIMUM AMOUNTS.—Using funds de-  
2 scribed in subsection (a), the Secretary of  
3 Labor shall assign to each State an amount  
4 equal to  $\frac{1}{2}$  of 1 percent of such funds.

5 (B) FORMULA AMOUNTS.—The Secretary  
6 of Labor shall assign the remainder of the  
7 funds described in subsection (a) among the  
8 States by assigning—

9 (i)  $33\frac{1}{3}$  percent on the basis of the  
10 relative number of individuals in the civil-  
11 ian labor force who are not younger than  
12 16 but younger than 25 in each State,  
13 compared to the total number of individ-  
14 uals in the civilian labor force who are not  
15 younger than 16 but younger than 25 in  
16 all States;

17 (ii)  $33\frac{1}{3}$  percent on the basis of the  
18 relative number of unemployed individuals  
19 in each State, compared to the total num-  
20 ber of unemployed individuals in all States;  
21 and

22 (iii)  $33\frac{1}{3}$  on the basis of the relative  
23 number of disadvantaged young adults and  
24 youth in each State, compared to the total

1                   number of disadvantaged young adults and  
2                   youth in all States.

3           (3) REALLOTMENT.—If the Governor of a State  
4           does not submit a State plan modification or other  
5           State request for funds specified in guidance under  
6           subsection (b) by the date specified in subsection  
7           (d)(2)(A), or a State does not receive approval of  
8           such State plan modification or request, the amount  
9           the State would have been eligible to receive pursu-  
10          ant to paragraph (1) shall be allocated to States  
11          that receive approval of State plan modifications or  
12          requests specified in the guidance. Each such State  
13          shall receive a share of the total amount available  
14          for reallotment under this paragraph, in accordance  
15          with the State’s share of the total amount allotted  
16          under paragraph (1) to such State.

17          (4) DEFINITIONS.—For purposes of paragraph  
18          (2), the term “disadvantaged young adult or youth”  
19          means an individual who is not younger than 16 but  
20          is younger than 25 who received an income, or is a  
21          member of a family that received a total family in-  
22          come, that, in relation to family size, does not exceed  
23          the higher of—

24                   (A) the poverty line; or

1 (B) 70 percent of the lower living standard  
2 income level.

3 (d) STATE PLAN MODIFICATION.—

4 (1) IN GENERAL.—For a State to be eligible to  
5 receive an allotment of funds under subsection (c),  
6 the Governor of the State shall submit to the Sec-  
7 retary of Labor a State plan modification, or other  
8 State request for funds specified in guidance under  
9 subsection (b), in such form and containing such in-  
10 formation as the Secretary may require. At a min-  
11 imum, such State plan modification or request shall  
12 include—

13 (A) a description of the strategies and ac-  
14 tivities to be carried out to provide summer em-  
15 ployment opportunities and year-round employ-  
16 ment opportunities, including linkages to train-  
17 ing and educational activities, consistent with  
18 subsection (f);

19 (B) a description of the requirements the  
20 State will apply relating to the eligibility of low-  
21 income youth, consistent with section 5101(4),  
22 for summer employment opportunities and year-  
23 round employment opportunities, which require-  
24 ments may include criteria to target assistance  
25 to particular categories of such low-income



1177

1 youth, such as youth with disabilities, con-  
2 sistent with subsection (f);

3 (C) a description of the performance out-  
4 comes to be achieved by the State through the  
5 activities carried out under this section and the  
6 processes the State will use to track perform-  
7 ance, consistent with guidance provided by the  
8 Secretary of Labor regarding such outcomes  
9 and processes and with section 5104(b);

10 (D) a description of the timelines for im-  
11 plementation of the strategies and activities de-  
12 scribed in subparagraph (A), and the number of  
13 low-income youth expected to be placed in sum-  
14 mer employment opportunities, and year-round  
15 employment opportunities, respectively, by  
16 quarter;

17 (E) assurances that the State will report  
18 such information, relating to fiscal, perform-  
19 ance, and other matters, as the Secretary may  
20 require and as the Secretary determines is nec-  
21 essary to effectively monitor the activities car-  
22 ried out under this section;

23 (F) assurances that the State will ensure  
24 compliance with the requirements, restrictions,

1 labor standards, and other provisions described  
2 in section 5104(a); and

3 (G) if a local board and chief elected offi-  
4 cial in the State will provide employment oppor-  
5 tunities with the link to training and edu-  
6 cational activities described in subsection  
7 (f)(2)(B), a description of how the training and  
8 educational activities will lead to the industry-  
9 recognized credential involved.

10 (2) SUBMISSION AND APPROVAL OF STATE  
11 PLAN MODIFICATION OR REQUEST.—

12 (A) SUBMISSION.—The Governor shall  
13 submit the State plan modification or other  
14 State request for funds specified in guidance  
15 under subsection (b) to the Secretary of Labor  
16 not later than 30 days after the issuance of  
17 such guidance.

18 (B) APPROVAL.—The Secretary of Labor  
19 shall approve the State plan modification or re-  
20 quest submitted under subparagraph (A) within  
21 30 days after submission, unless the Secretary  
22 determines that the plan or request is incon-  
23 sistent with the requirements of this section. If  
24 the Secretary has not made a determination  
25 within that 30-day period, the plan or request

1           shall be considered to be approved. If the plan  
2           or request is disapproved, the Secretary may  
3           provide a reasonable period of time in which the  
4           plan or request may be amended and resub-  
5           mitted for approval. If the plan or request is  
6           approved, the Secretary shall allot funds to the  
7           State under subsection (c) within 30 days after  
8           such approval.

9           (3) MODIFICATIONS TO STATE PLAN OR RE-  
10          QUEST.—The Governor may submit further modi-  
11          fications to a State plan modification or other State  
12          request for funds specified under subsection (b),  
13          consistent with the requirements of this section.

14          (e) WITHIN-STATE ALLOCATION AND ADMINISTRA-  
15          TION.—

16               (1) IN GENERAL.—Of the funds allotted to the  
17          State under subsection (c), the Governor—

18                   (A) may reserve not more than 5 percent  
19                   of the funds for administration and technical  
20                   assistance; and

21                   (B) shall allocate the remainder of the  
22                   funds among local workforce investment areas  
23                   within the State in accordance with clauses (i)  
24                   through (iii) of subsection (c)(2)(B), except  
25                   that for purposes of such allocation references

1 to a State in subsection (c)(2)(B) shall be  
2 deemed to be references to a local workforce in-  
3 vestment area and references to all States shall  
4 be deemed to be references to all local work-  
5 force investment areas in the State involved.

6 (2) LOCAL PLAN.—

7 (A) SUBMISSION.—In order to receive an  
8 allocation under paragraph (1)(B), the local  
9 workforce investment board, in partnership with  
10 the chief elected official for the local workforce  
11 investment area involved, shall submit to the  
12 Governor a local plan modification, or such  
13 other request for funds by local workforce in-  
14 vestment areas as may be specified in guidance  
15 under subsection (b), not later than 30 days  
16 after the submission by the State of the State  
17 plan modification or other State request for  
18 funds specified in guidance under subsection  
19 (b), describing the strategies and activities to be  
20 carried out under this section.

21 (B) APPROVAL.—The Governor shall ap-  
22 prove the local plan modification or other local  
23 request for funds submitted under subpara-  
24 graph (A) within 30 days after submission, un-  
25 less the Governor determines that the plan or

1 request is inconsistent with requirements of this  
2 section. If the Governor has not made a deter-  
3 mination within that 30-day period, the plan  
4 shall be considered to be approved. If the plan  
5 or request is disapproved, the Governor may  
6 provide a reasonable period of time in which the  
7 plan or request may be amended and resub-  
8 mitted for approval. If the plan or request is  
9 approved, the Governor shall allocate funds to  
10 the local workforce investment area within 30  
11 days after such approval.

12 (3) REALLOCATION.—If a local workforce in-  
13 vestment board and chief elected official do not sub-  
14 mit a local plan modification (or other local request  
15 for funds specified in guidance under subsection (b))  
16 by the date specified in paragraph (2), or the Gov-  
17 ernor disapproves a local plan, the amount the local  
18 workforce investment area would have been eligible  
19 to receive pursuant to the formula under paragraph  
20 (1)(B) shall be allocated to local workforce invest-  
21 ment areas that receive approval of their local plan  
22 modifications or local requests for funds under para-  
23 graph (2). Each such local workforce investment  
24 area shall receive a share of the total amount avail-  
25 able for reallocation under this paragraph, in accord-

1       ance with the area's share of the total amount allo-  
2       cated under paragraph (1)(B) to such local work-  
3       force investment areas.

4       (f) USE OF FUNDS.—

5           (1) IN GENERAL.—The funds made available  
6       under this section shall be used—

7           (A) to provide summer employment oppor-  
8       tunities for low-income youth, with direct link-  
9       ages to academic and occupational learning,  
10      and may be used to provide supportive services,  
11      such as transportation or child care, that is  
12      necessary to enable the participation of such  
13      youth in the opportunities; and

14          (B) to provide year-round employment op-  
15      portunities, which may be combined with other  
16      activities authorized under section 129 of the  
17      Workforce Investment Act of 1998 (29 U.S.C.  
18      2854), to low-income youth.

19          (2) PROGRAM PRIORITIES.—In administering  
20      the funds under this section, the local board and  
21      chief elected official shall give priority to—

22           (A) identifying employment opportunities  
23      that are—

1 (i) in emerging or in-demand occupa-  
2 tions in the local workforce investment  
3 area; or

4 (ii) in the public or nonprofit sector  
5 and meet community needs; and

6 (B) linking participants in year-round em-  
7 ployment opportunities to training and edu-  
8 cational activities that will provide such partici-  
9 pants an industry-recognized certificate or cre-  
10 dential (referred to in this title as an “industry-  
11 recognized credential”).

12 (3) ADMINISTRATION.—Not more than 5 per-  
13 cent of the funds allocated to a local workforce in-  
14 vestment area under this section may be used for  
15 the costs of administration of this section.

16 (4) PERFORMANCE ACCOUNTABILITY.—For ac-  
17 tivities funded under this section, in lieu of meeting  
18 the requirements described in section 136 of the  
19 Workforce Investment Act of 1998 (29 U.S.C.  
20 2871), States and local workforce investment areas  
21 shall provide such reports as the Secretary of Labor  
22 may require regarding the performance outcomes de-  
23 scribed in section 5104(b)(5).

1   **SEC. 5104. GENERAL REQUIREMENTS.**

2           (a) LABOR STANDARDS AND PROTECTIONS.—Activi-  
3   ties provided with funds made available under this title  
4   shall be subject to the requirements and restrictions, in-  
5   cluding the labor standards, described in section 181 of  
6   the Workforce Investment Act of 1998 (29 U.S.C. 2931)  
7   and the nondiscrimination provisions of section 188 of  
8   such Act (29 U.S.C. 2938), in addition to other applicable  
9   Federal laws.

10          (b) REPORTING.—The Secretary of Labor may re-  
11   quire the reporting of information relating to fiscal, per-  
12   formance and other matters that the Secretary determines  
13   is necessary to effectively monitor the activities carried out  
14   with funds provided under this title. At a minimum, recipi-  
15   ents of grants (including recipients of subgrants) under  
16   this title shall provide information relating to—

17           (1) the number of individuals participating in  
18   activities with funds provided under this title and  
19   the number of such individuals who have completed  
20   such participation;

21           (2) the expenditures of funds provided under  
22   this title;

23           (3) the number of jobs created pursuant to the  
24   activities carried out under this title;

25           (4) the demographic characteristics of individ-  
26   uals participating in activities under this title; and



1           (5) the performance outcomes for individuals  
2       participating in activities under this title, includ-  
3       ing—

4           (A) for low-income youth participating in  
5       summer employment activities under section  
6       5103, performance on indicators consisting of—

7           (i) work readiness skill attainment  
8       using an employer validated checklist;

9           (ii) placement in or return to sec-  
10      ondary or postsecondary education or  
11      training, or entry into unsubsidized em-  
12      ployment; and

13          (B) for low-income youth participating in  
14      year-round employment activities under section  
15      5103, performance on indicators consisting of—

16          (i) placement in or return to postsec-  
17      ondary education;

18          (ii) attainment of a secondary school  
19      diploma or its recognized equivalent;

20          (iii) attainment of an industry-recog-  
21      nized credential; and

22          (iv) entry into, retention in, and earn-  
23      ings in, unsubsidized employment.

24      (c) ACTIVITIES REQUIRED TO BE ADDITIONAL.—

25      Funds provided under this title shall only be used for ac-

1 tivities that are in addition to activities that would other-  
2 wise be available in the State or local workforce invest-  
3 ment area in the absence of such funds.

4 (d) **ADDITIONAL REQUIREMENTS.**—The Secretary of  
5 Labor may establish such additional requirements as the  
6 Secretary determines may be necessary to ensure fiscal in-  
7 tegrity, effective monitoring, and the appropriate and  
8 prompt implementation of the activities under this title.

9 (e) **REPORT OF INFORMATION AND EVALUATIONS TO**  
10 **CONGRESS AND THE PUBLIC.**—The Secretary of Labor  
11 shall provide to the appropriate committees of Congress  
12 and make available to the public the information reported  
13 pursuant to subsection (b).

14 **SEC. 5105. VISA SURCHARGE.**

15 (a) **COLLECTION.**—

16 (1) **IN GENERAL.**—Subject to paragraph (2),  
17 and in addition to any fees otherwise imposed for  
18 such visas, the Secretary shall collect a surcharge of  
19 \$10 from an employer that submits an application  
20 for—

21 (A) an employment-based visa under para-  
22 graph (3), (4), (5), or (6) of section 203(b) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1153(b)); and

1 (B) a nonimmigrant visa under subpara-  
2 graph (C), (H)(i)(b), (H)(i)(c), (H)(ii)(a),  
3 (H)(ii)(B), (O), (P), (R), or (W) of section  
4 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)).

5 (2) EXPIRATION.—The Secretary shall suspend  
6 the collection of the surcharge authorized under  
7 paragraph (1) on the date on which the Secretary  
8 has collected a cumulative total of \$1,500,000,000  
9 under this subsection.

10 (b) DEPOSIT.—All of the amounts collected under  
11 subsection (a)(1) shall be deposited in the general fund  
12 of the Treasury.